

A GUIDE FOR THE PROSPECTIVE NAVY CONTRACTOR

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by

CAMERON ALAN MANNING
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A REPORT TO THE GRADUATE COMMITTEE
OF THE DEPARTMENT OF CIVIL ENGINEERING IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF MASTER OF ENGINEERING

UNIVERSITY OF FLORIDA

SUMMER 1991

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The first section of the document is a list of the changes that have been made to the system. This list is organized into two columns. The left column contains the name of the change, and the right column contains the date that the change was made. The changes are listed in chronological order, with the most recent changes at the top of the list. The changes include the addition of new features, the modification of existing features, and the deletion of features that are no longer needed. The list of changes is followed by a section titled "Description of Changes". This section provides a detailed description of each change, including the reason for the change and the steps that were taken to implement the change. The description of changes is followed by a section titled "Impact of Changes". This section describes the impact of each change on the system, including the changes to the user interface, the changes to the data, and the changes to the system's performance. The impact of changes is followed by a section titled "Conclusion". This section summarizes the changes that have been made to the system and the impact of these changes on the system's performance and user interface.

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CHAPTER ONE

INTRODUCTION

1.1 Introduction

The United States Naval Facilities Engineering Command awarded over 1-billion dollars in construction contracts in 1990 and is expected to increase that figure in 1991 despite decreasing defense budgets [3, p. 3]. These contracts will be awarded all over the world from the Philippines to the Middle East. These contracts will range in size from five thousand dollar playgrounds to hundred million dollar buildings. It would not be reasonable to pass up the opportunity of performing a share of these projects.

The only deterrent to tackling Navy projects is a lack of knowledge on the procedures required to undertake Navy construction. The objective of this paper is to develop a guide that will allow contractors to make a smooth transition from contracting with other sources into contracting with the United States Navy. It will cover various areas that often lead to difficulties for contractors unfamiliar with Navy construction contracting. Also the guide will provide an overview of the entire contracting experience from reading the advertisement for the job, to the warranty period after construction. It should be understood that the information presented in this guide applies to the most common type of construction contract used by the Navy - fixed price/lump sum. By using the information presented in this manual a contractor

will not only be able to commence a profitable relationship with the Navy, but also an enjoyable one, highlighted by cooperation and mutual understanding.

CHAPTER TWO

RISK CONSIDERATIONS

2.1 Limiting Risk in Contracting with the Navy

Before studying the intricacies of contracting with the Navy the concept of "risk" needs to be addressed. Contracting is by its nature a high risk business. Various owners, types of projects, and types of contracts are associated with different levels and types of risk. The types of risk can include insufficient funds to pay for the completion of projects, the number of changes required during construction, flexibility in dealing with changed conditions, and the regularity of progress payments.

From a contractor's stand point with regard to payment, the Navy is a low risk business partner. This means that the Navy pays. A lack of funds is rarely a problem as it may be in private sector contracting. Progress payments are regularly paid with interest being paid to the contractor on invoices submitted that the Navy has held for more than 14 days.[6, p. 26-5]

Changes, delays, errors or omissions in contract drawings, constructive acceleration, design errors, and other areas which may increase contract costs and occur during the course of a project all have specific resolution procedures. The overriding policy in dealing with these problems is the concept of "Fair and Equitable". All Navy personnel are

committed to this policy and the contractor need not worry about unscrupulous practices which would result in unjust financial losses to him.

The only short coming is the type of contract the Navy generally uses for construction - lump sum - fixed price. In the lump sum fixed price type contract a significant portion of the risk in contracting is placed on the contractor. A contractor can limit risk in this area by preparing accurate estimates, extensive planning, and proper foresight. The Navy holds the contractor to the terms of the contract and will not compensate him for incompetence. The courts have however, upheld the practice of not allowing unjust enrichment and contractors are compensated for all the work they perform.

In short, the amount of risk associated with Navy construction contracting is directly related to the professionalism, competency, and proficiency of the contractor. Thousands of contractors that rate high in these areas make a great deal of money by contracting with the Navy.

CHAPTER THREE

THE DECISION TO BID NAVY WORK

3.1 The Advertisement for bid

How is a contractor alerted that a Navy contract is out for bid? How does one know what type of work is suitable for his business?

Navy contracts are advertised in the Commerce Business Daily (CBD)(figure 3.1.1), a newspaper published by the Federal government. Navy contracts are also advertised on bulletin boards at local contracting offices at Naval installations and can also be found in a variety of other publications. It is possible to become a subscriber to the CBD or the other publications. Subscriptions range from \$100 to \$600 dollars however this is insignificant compared to the amount of work that can be found in these publications. Many contractors with experience in Navy contracting make it part of their daily routine to review the CBD.

A typical advertisement for bid will contain the following information:

1. Job title.
2. Dollar range of job (i.e. between \$25,000 and \$100,000).
3. Estimated project duration.
4. Location.

Commanding Officer, Naval Facilities Engineering Command, 2155 Eagle Drive (29418), P. O. Box 10068, Charleston, SC

Z -- SQUADRON OPERATIONS BUILDING, REPAIR ROOF, NAVAL AIR STATION, NEW ORLEANS, LA SOL N62467 91 B 0552 DUE 082991 POC To obtain plans and specification, write the address listed above in line #7 or fax your request to 803/743 0394 Attn 0223SL For technical questions, write the address listed above in line #7 Attn Jan Wilkinson, 803/743 0755. Contracting Officer, P. A. Collins To obtain bid results contact S. Long at 803/743 0922 Repairs and Modifications to existing preformed architectural standing seam steel roofing system and incidental related work. The work includes valley, coping, wall to roof intersection and penetration flashing. The proposed acquisition listed herein is being considered for 100% Set Aside for Small Disadvantaged Business (SDB) Concerns. Interested SDB Concerns should notify this office in writing. Attn Code 0211JW of their intention to bid the project as prime contractor as early as possible but no later than 23JULY1991. This notification must include a positive statement of eligibility as a small socially and economically disadvantaged business concern, evidence of capacity to obtain required bonds and specific information which demonstrates the capability to perform projects of this complexity and magnitude. Complete information concerning management experience in similar work and financial status should be submitted with references. If adequate interest is not received from SDB Concerns, the solicitation will be issued on an unrestricted basis without further notice. Therefore replies to this NOTICE are requested from all interested business concerns as well as from small disadvantaged business concerns. There is no charge for the first set of plans and specification. There is a \$10.00 non-refundable charge for each additional set of plans and specs. No telephonic orders for plans and specs can be accepted. To order, make company check payable to Southern Division, U.S. Navy, and mail to Attn 0223SL, P. O. Box 10068, Charleston, SC 29411 0068. Estimated cost is between \$100,000 and \$250,000. Estimated duration of contract is 60 calendar days for completion. (0189)

Commanding Officer, Naval Facilities Engineering Command, 2155 Eagle Drive (29418), P. O. Box 10068, Charleston, SC

Z -- REPAIR DIESEL GENERATORS BY REPLACEMENT BUILDING 32, NAVAL SECURITY GROUP ACTIVITY, HOMESTEAD, FL SOL N62467 91 B 0521 DUE 090591 POC To obtain plans and specification, write the address listed above in line #7 Attn 0223SL For technical questions, write the address listed above in line #7 Attn Shirley Cline, 803/743 0934. Contracting Officer, P. A. Collins To obtain bid results contact S. Long at 803/743 0922 The work includes removing two existing 400KW diesel generator units and associated switches and electrical service and one motor generator unit and providing two new 725 KW motor generator units, new switch gear, and associated electrical and mechanical work. The proposed acquisition listed herein is being considered for 100% Set Aside for Small Disadvantaged Business (SDB) Concerns. Interested SDB Concerns should notify this office in writing. Attn Code 0211SC of their intention to bid the project as prime contractor as early as possible but no later than 29JULY1991. This notification must include a positive statement of eligibility as a small socially and economically disadvantaged business concern, evidence of capacity to obtain required bonds and specific information which demonstrates the capability to perform projects of this complexity and magnitude. Complete information concerning management experience in similar work and financial status should be submitted with references. If adequate interest is not received from SDB Concerns, the solicitation will be issued on an unrestricted basis without further notice. Therefore replies to this NOTICE are requested from all interested business concerns as well as from small disadvantaged business concerns. There is a \$10.00 non-refundable charge for ALL sets of plans and specs. No telephonic orders for plans and specs can be accepted. To order, make company check payable to Southern Division, U.S. Navy, and mail to Attn 0223SL, P. O. Box 10068, Charleston, SC 29411 0068. Estimated cost is between \$500,000 and 1,000,000. Estimated duration of contract is 260 calendar days for completion. (0189)

Commanding Officer, Naval Facilities Engineering Command, 2155 Eagle Drive, P. O. Box 10068, Charleston, SC 29411 0068

Z -- INSTALL GENERATOR - BUILDING 506, NAVAL COMMUNICATION STATION, JACKSONVILLE, FL SOL N62467 86 B 0650 DUE 082991 POC To obtain plans and specification, write the address listed above in line #7 Attn Larn Page, telephone 803/743 0696. Contracting Officer, P. A. Collins To obtain bid results contact S. Long 803/743 0922 The work includes construction of a 560 square foot masonry building to house a Government Furnished Contractor installed diesel engine generator set, construction of a 3,000 gallon above ground fuel tank, and replacement, modification, and additions to the existing electrical distribution equipment to facilitate installation of the new generator. The proposed acquisition listed herein is being considered for 100% Set Aside for Small Disadvantaged Business (SDB) Concerns. Interested SDB Concerns should notify this office in writing. Attn Code 0211LN of their intention to bid the project as prime contractor as early as possible but no later than 23 July 1991. This notification must include a positive statement of eligibility as a small socially and economically disadvantaged business concern, evidence of capacity to obtain required bonds and specific information which demonstrates the capability to perform projects of this complexity and magnitude. Complete information concerning management experience in similar work and financial status should be submitted with references. If adequate interest is not received from SDB Concerns, the solicitation will be issued on an unrestricted basis and another notice will be issued indicating set aside decision. Therefore, replies to this office are requested from all interested business concerns as well as from small disadvantaged business concerns. There is no charge for the first set of plans and specification. There is a \$15.00 non-refundable charge for each additional set of plans and specs. No telephonic orders for plans and specs can be accepted. To order, make company check payable to Southern Division, U.S. Navy. Estimated cost is between \$250,000 and \$500,000. Estimated duration of the contract is 210 calendar days for completion. All bids received from responsible sources will be considered. (0189)

Commanding Officer, Naval Facilities Engineering Command, 2155 Eagle Drive (29418), P. O. Box 10068, Charleston, SC

Z -- REPLACE LOUVERS AND EXHAUST FANS, BUILDING 32, NAVAL SECURITY GROUP, HOMESTEAD, FL SOL N62467 90 B 0842 DUE 090591 POC To obtain plans and specification, write the address listed above in line #7 or fax your request to 803/743 0394 Attn 0223SL For technical questions, write the address listed above in line #7 Attn Shirley Cline, 803/743 0934. Contracting Officer, P. A. Collins To obtain bid results contact S. Long at 803/743 0922 Work consists of the replacement of (9) existing louvers with fixed louvers approximately 9'5" x 7'5" each and (5) propeller exhaust fans with back draft dampers in the mechanical room of Building 32. The proposed acquisition listed herein is being considered for 100% Set Aside for Small Disadvantaged Business (SDB) Concerns. Interested SDB Concerns should notify this office in writing. Attn Code 0211SC of their intention to bid the project as prime contractor as early as possible but no later than 29JULY1991. This notification must include a positive statement of eligibility as a small socially and economically disadvantaged business concern, evidence of capacity to obtain required bonds and specific information which demonstrates the capability to perform projects of this complexity and magnitude. Complete information concerning management experience in similar work and financial status should be submitted with references. If adequate interest is not received from SDB Concerns, the solicitation will be issued on an unrestricted basis without further notice. Therefore replies to this NOTICE are requested from all interested business concerns as well as from small disadvantaged business concerns. There is no charge for the first set of plans and specification. There is a \$10.00 non-refundable charge for each additional set of plans and specs. No telephonic orders for plans and specs can be accepted. To order, make company check payable to Southern Division, U.S. Navy, and mail to Attn 0223SL, P. O. Box 10068, Charleston, SC 29411 0068. Estimated cost is between \$25,000 and \$100,000. Estimated duration of contract is 75 calendar days for completion. (0189)

Figure 3.1.1 Commerce Business Daily. Above are excerpts from the Commerce Business Daily dated 10 July 1991.

5. Brief description.
6. Location where plans and specifications can be obtained and their cost if any.
7. Any restrictions on who may bid.

From this information whether a job is right for a particular contractor can be determined. The questions to be asked are:

1. Has the contractor done similar work.
2. Has the contractor completed jobs in that price range.
3. Can the contractor support the job logistically given its location
4. Is the complexity of the job within the contractor's limitations.
5. Does the contractor have time to submit a proper bid.

If the answers to these questions are yes the contractor should determine the location of the contracting office and obtain the plans and specifications for the job.

3.2 Factors to Consider When Deciding to Bid

A quick review of the plans and specifications should provide the contractor with a definite idea of whether to bid

the job or not. The contractor should determine from his review if he has sufficient resources to accomplish the job. The resources should include sub-contractors, capital, management personnel and equipment.

It is rare that a contractor will have the capability to complete an entire contract without using at least one sub-contractor. In determining whether to bid a job the contractor should have a good relationship with the sub-contractors he will need for the project or have a definite idea of how to establish a proper rapport with the necessary sub-contractors. There are many stories of prime contractors having no relationship with sub-contractors and being left in an untenable position when it comes time for the work to be accomplished.

Determining if the contractor has sufficient capital to undertake a Navy job should be fairly simple. After award of the contract he will be expected to provide proof of performance and payment bonds along with insurance within 15 days. These items may be billed for upon submission to the government and the contractor can expect a 30 day wait before payment is made. Actual construction will be expected to start within 30 days of award. The amount the contractor is paid is based on work-in-place (WIP) and material on site or stored in a bonded warehouse. Typically The project is underway for 30 days prior to the first submission of an invoice by a contractor. After submission of the invoice the contractor

should allow 21 days for payment. Also up to 10 percent of each invoice will be retained. To sum up, the contractor will need sufficient capital to cover his bonds and insurance for 30 days and to cover his first months expenditures for up to 51 days.

The type of overhead or management required on a project for the Navy is noted in the specifications. Typically a full time job superintendent is required which will automatically require a second individual to handle administrative requirements which can not be handled at the job site. (It is most important for the contractor to have a competent job site superintendent because this individual's proficiency will determine the contractors ultimate success.) It is also possible that the Contractor will be required to provide a full time, on site, quality control inspector. He will need to be separate from the administrative individual and the superintendent.

Due to the wide variety of projects the Navy has, the equipment requirements range the entire spectrum. Heavy lifting devices to underwater construction equipment could be required depending on the type of project. If the contractor does not have the appropriate equipment in his inventory it must be ensured that it is readily available and will be in the future, since contract completion times can range from 60 days to several years.

In short, after reading the advertisement for bid, the contractor should decide whether to make a detailed review of the plans and specifications. If his sub-contractor situation, capital position, overhead capability and equipment situation will support the project his next step is to prepare a bid.



CHAPTER FOUR

FACTORS TO CONSIDER AFTER DECIDING TO BID

4.1 Bidding Environment

After deciding to bid a job from reading the advertisement for bid the contractor must determine the bidding environment, the time he can devote to preparing his bid and his bidding strategy. Without considering each of these areas the contractor has the opportunity to make very costly mistakes in his bid.

The bidding environment is most important in determining whether a contractor will be awarded a contract regardless of his price. The factors that make up the bidding environment include the number of contractors interested or available to do the work, the urgency of the work, the degree of difficulty of the project, and the amount of other work available in the area.

The number of contractors available for a job is directly related to the maximum bid that may be offered for a job. For example if there are a large number of contractors who are willing to do a job there is no doubt that the bids will be very close to the actual cost of the job. On the other hand if there is a limited number of contractors available to accomplish a particular contract i.e. extinguishing oil well fires in Kuwait after the Persian Gulf War, then the bids will allow for a higher profit margin for the bidding contractor.

Conversely, if a high number of projects are available compared to the number of contractors capable of completing the work, again the profit available from the contract will be higher.

Knowing other competitors is also important. If it is known that, despite the number of contractors who are physically able to accomplish a contract, very few are available due to the current work load in the area, the bids will again allow for a higher profit margin.

4.2 Level of Detail

The level of detail required in the bid is a function of the time available to prepare the bid, the requirements of the owner, the experience of the contractor, and the desire of the contractor to obtain the contract.

The amount of time available to prepare a bid can vary for a number of reasons. The contractor's estimating staff may be working on several bids due at the same time and not be able to devote the necessary time required for a detailed bid. Time may not be available for a bid due to the position of the owner. The contractor may determine that awards he expected to receive do not occur and may be forced to make a hasty bid in order to maintain a minimum level of activity. If any of these situations arise the contractor should be very meticulous in checking the bid prior to submission. If a thorough check of the bid is impossible a substantial contingency should be

added to the bid to allow for errors which could be financially burdensome or even catastrophic.

The requirements of the owner may call for a certain level of detail in an estimate. While the typical contract for construction in the Navy will be fixed price-lump sum it still may be necessary to present specific details of an estimate. This would occur if the contractor were to make an error in a bid and request he be absolved from the responsibility to execute the contract. Also if a dispute arises over a unit price item the Navy may request he present details of his bid to resolve the dispute.

The experience of the contractor may be the single biggest factor in the level of detail used in the preparation of a bid. If a contractor has done similar work for a number of years in a particular area, knowledge of the costs involved will limit the need for extensive detail. If the contractor is unfamiliar with the type of work he should be very cautious, conservative and precise in developing a bid.

If the contractor is in need of work, his level of detail in estimating the job should be high. Estimating the cost to the nearest dollar will enable him to adjust his profit to the lowest level possible. Consequently this will allow the contractor to submit the lowest bid acceptable to him. If the contractor considers the firm sufficiently tasked, he may do parametric estimating which is generally higher in cost. Some contractors make a practice of bidding on all jobs at higher

cost assuming that the law of averages will allow them to receive the award of the contract at a higher profit.

Bid items are one other area where the level of detail can vary significantly. All the factors affecting the main bid are applicable to the contractor's procedure for developing his estimate for bid items. However, if the time available for the development of a bid is short it is highly recommended that more time be spent on the main bid. Often bid items are not selected for inclusion in the contract. However, when they are included, the sum of the main bid plus the bid items selected determine the low bidder. Thus an effort should be made to be as accurate as possible in estimating bid items regardless of the time available.

4.3 Procedure

After deciding to bid a Navy project and determining a bidding strategy, the procedure for submission is fairly simple. A bid package may be obtained from the contracting office that will award the contract, follow all the procedures in the "Instructions to Bidders" (appendix a), and submit the bid by the appointed time and date.

The bid package will contain all the information a contractor will need to know to bid on a project. The most important information is the Instructions to Bidders. This portion of the bid package should be followed exactly since

deviations could result in a bid being found to be non-responsive and consequently rejected.

The major items required for submission of a bid are a bid bond, the amount of the bid on the Department of Defense standard form 1442, and other representations and certifications (appendix b). The bid bond is similar to those required in most construction contracts. Standard form 1442 serves the triple purpose of being the invitation for bid, the document on which the bid is submitted, and the actual document that is signed by both parties to execute the contract. Other representations and certifications could include certification by the Small Business Administration that the contractor is a disadvantaged concern under the 8(a) program or other similar representations.

Submission of the bid at the appointed time and date while seemingly obvious is an area where contractors should be particularly sensitive. Understandably, it is important to get the lowest prices from sub-contractors and this may not occur until moments before the time for bid submission. However, the Navy is adamant on this issue and the courts have upheld that bids submitted after the time due may be summarily rejected. There is significant case law on what constitutes an acceptable and unacceptable late bid. It leans toward allowing the agency to reject the bid and this occurs regularly at Navy contracting offices. Case law is where the solution is often

determined and avoidance of the courts is almost always in the interest of the contractor.

CHAPTER FIVE

CONTRACT AWARD AND EXECUTION

5.1 Contract Award

After the bids have been received at the local contracting office (usually part of the public works department) and the time for the bid opening has arrived, the bids are publicly opened. At the bid opening the contractor can determine where he stands in the field of bidders. At this point, even if a contractor appears to be the low bidder, award of the contract is not immediate. The contracting office must first determine if the apparent low bidder is also responsible -- that is, if all the criteria for award of the contract have been met. The criteria include proper preparation of all bid forms, the reasonableness of the submitted bid, and the fulfillment of any special criteria associated with the project.

Once the contractor has been determined to be the lowest responsive, responsible bidder the award of a construction contract is made by the local contracting office. From bid opening to the date of award usually takes no more than two weeks unless problems occur. Also the government is authorized to hold bids up to 60 days before award. The contractor is notified of his selection by a certified letter which contains:

1. The amount of his bid.

2. The bid items selected.
3. The name, phone number and address of the contracting office who will administer the contract.
4. Instructions to submit the appropriate bonds and insurance (appendix c).
5. Instructions to contact the administering contract office to arrange for a pre-construction conference.

When this letter is received the contractor should have already made arrangements to procure insurance, payment bond and performance bond so that no time is wasted on administrative procedures that may interfere with the time allotted for construction. First time contractors have been known to experience delays in procuring these necessary items. No construction can start until the contracting office has received and approved these important documents. Consequently delays in this area force the contractor to start behind schedule on a project. Contractors familiar with the Navy contracting system often bring their insurance and bonds to the pre-construction conference.

5.2 The Pre-Construction Conference

The pre-construction conference is normally held at the administering contract office referred to as the ROICC (Resident Officer in Charge of Construction - pronounced roynk) office. At the pre-construction conference pertinent

contract data and all administration procedures that will be followed during the execution of the contract will be discussed (appendix c). Pertinent contract data includes the title of the project, contract amount, notice of award date, contract completion date and the duration of the contract. The administration areas addressed discussed will cover contractor administration and ROICC administration.

Contractor administration merely covers the verification of the contractor's address, business and emergency telephone numbers, and who the contractor's project manager and superintendent will be along with the limits of their authority with regard to change orders. The most important item under contractor administration is the date the contractor expects to begin work. This should be carefully considered prior to the pre-construction conference because it is the first professional promise the contractor will make to the ROICC. Many contractors have started out by missing their projected start date and thus lessened the confidence the ROICC has in them before the project even starts.

Under the ROICC administration area of the pre-construction conference (pre-con) the contractor will learn the ground rules for construction with the Navy. The contractor will also learn the names of the individuals he will be dealing with over the course of the project. Most importantly, he will learn the duties, responsibilities and authority of the ROICC personnel with whom he will be working.

The ground rules covered the procedure required for accomplishing work out side of normal working hours, the method for procuring utility outages and road closures, base fire, security and safety regulations, procedures for medical emergencies and pertinent areas listed in the general provisions of the contract specifications. The most important area of the ground rules that will be discussed is the procedure for the submission of invoices for progress payments. It is expected that a prospective Navy contractor is familiar with contracting in general, however, the contractor should not assume that the invoicing procedure he may have used on other projects with other customers is the same as that of the Navy. Many contractors have failed to realize that deviating from the procedures discussed can lead to significant delay in the payment of submitted invoices and consequently incredible cash-flow problems.

The individuals the contractor will normally deal with during the course of the project are the assistant resident officer/engineer in charge of construction (AROICC, AREICC) and/or the project engineer, the engineering technician, construction representative (conrep), the contract specialist, and the procurement assistant. The contractor will usually meet these personnel at the pre-con. It is wise to make a concerted effort to learn as much about these people at the

pre-con since the conduct of the project, good or bad, will hinge on the relationship developed with them.

5.3 The Personnel

The duties, responsibilities and authority of the individuals will be discussed during the pre-con. The AROICC/AREICC and/or the project engineer are responsible for the overall administration of the project from the pre-construction conference (precon) to the beneficial occupancy date (b-o-d). Their duties include reviewing all invoices for payment, participating in the negotiation of all modifications to the contract, interpretation of the contract plans and specifications and origination of nearly all correspondence from the ROICC. They are authorized to act for the Resident Officer in Charge of Construction (ROICC) and can obligate the government for changes in the contract time or price up to the level of their warranting (see contracting officer). They will deal most with the contractor's project manager.

The responsibility of the engineering technicians/conreps is to represent the government at the work site. Their duties include inspection of the construction at the site, coordination of all utility outages, road closures, and similar interactions with base personnel. They have no authority to change the contract time or price or the contractor's methods and procedures as long as they conform with the plans and specifications and safe practices. They

will have daily interaction with the project superintendent. One area where the interaction of the engineering tech/conrep must occur is in the preparation of the invoice. As was stated the method for determining the amount to be paid on an invoice is by the work-in-place (WIP). The WIP should be agreed to prior by the contractor superintendent and the engineering tech/conrep. Many contractor's have received considerably less than they expected in payment for their invoice when this vital coordination has not occurred.

The responsibilities of the contract specialist are to process contract modifications involving money and time. Their duties include ensuring that all contract modifications and negotiations are executed in accordance with the Federal Acquisition Regulation and other amplifying documents, including the Naval Facilities Engineering Command Contracting Manual, commonly known as the P-68. They do not have the authority to change the contract time or price but do have the authority to ensure no actions occur that are not in accordance with the established contracting procedures.

The responsibilities of the procurement assistant are to ensure project files are maintained and the flow of information into and out of the office occurs in an orderly fashion. Their duties are to receive and distribute all incoming information including correspondence, submittals, invoices, and payrolls. They also receive incoming phone calls, maintain office supply levels, type all outgoing

material, and receiving visitors [13, p. 25]. In short the procurement assistants will be the individuals who the contractor will deal with most often. Because of their extensive involvement with all facets of a project from an administrative view point, extra effort should be made to cultivate a good relationship with them.

5.4 Important Documents

There are a number of key documents the contractor must submit to ensure the overall smooth flow of a project. Most are listed in the submittal section of the contract specification. The key submittals include the project schedule submitted with each invoice in the form requested, usually a CPM or bar chart, a schedule of prices, weekly payrolls, daily reports to inspectors (DRI) (appendix e), WITHOUT THESE ITEMS PAYMENT WILL NOT BE MADE. All other submittals must also be given to the ROICC office in a timely fashion.

First time contractors often present a submittal for an item on the day they wish to install it. Invariably this lack of foresight results in a delay to the schedule for which the contractor has no excuse. Contractors should expect up to 30 days for submittal approval. This point is mentioned in the contract specifications. Particular attention should be given to the submission of information on complicated or long lead items like transformers or doors. Disagreements on the requirement for submittals should be avoided. However, if it

is possible to identify alternate materials, methods or equipment this can be done as long as sufficient time is allowed by the contractor for resolution of the deviation. Staying ahead on the paper work is the key to staying ahead on the job site.

Schedules are required on every project no matter what size. For contracts over \$25,000 dollars a computer generated CPM is usually called for along with a bar chart. This requirement should not become a point of contention between the ROICC office and the Contractor. In the early 80's it was difficult and expensive to produce a CPM and often required the assistance of a consultant. Now there are numerous inexpensive CPM programs on the market. It is recommended that a simple one be purchased by the contractor and used to his advantage to better prosecute his work.

A schedule of prices is also a requirement that is easy to fulfil. It can easily be taken from the master activities generated from a CPM. Contractors should not attempt to place the majority of the lump sum price at the beginning of the project. This technique, commonly called "front loading" is something all personnel reviewing contractor invoices have been alerted to and is not acceptable.

The Davis-Bacon Act sets wages for building trades on federal construction contracts over \$2000. The wage rates set are those prevailing in the project locality. Payment must equal or exceed these rates and up to 25 percent of the annual

wages can be can be paid in the form of fringe benefits to the employees[4, p. 402]. The ROICC office monitors contractor compliance with the Davis-Bacon Act by reviewing contractor certified payrolls which should be submitted weekly. Significant discrepancies in the certified payrolls are turned over to the department of labor for resolution. It is in the best interests of the contractor to avoid a department of labor investigation. During the course of labor violation investigation the department is authorized to invade the company offices to review all pertinent data. Also the process can be quite lengthy and can tie-up significant resources.

Daily reports to inspectors (DRI's) are quite important because they are also a requirement for progress payments to be processed. They are most important to the contractor because they present a diary of the daily events over the course of the project. Many un-knowlegeable contractors view the DRI's as an unnecessary burden, however, if properly kept they can resolve an entire realm of disputes over what was said, what direction was given, and who may be at fault for project difficulties. For DRI's to be allowed in court or to avoid litigation the following guidelines should be followed in their preparation:

1. Entries are made in the regular course of business.
2. Entries are made contemporaneously with the events recorded.
3. The entries are the originals.

4. The entries are based on personal knowledge of the person making them [11, p.259].

DRI's are best if prepared by the inspector and should contain all the aspects of the project occurring at the time. A typical government form will have spaces to record the weather, number of trades on site and activities being worked on for the day.

This section has been meant to cover all the events that will occur over the course of a normal project. The emphasis has been placed on areas that have proven to be common problems to contractors. The areas discussed should not be construed to contain every detail required for a successful project. However, if the contractor is competent in his field, and follows the suggestions made he will very much decrease the possibility of encountering difficulties in adjusting to working with the Navy.

CHAPTER SIX

THE CONTRACTING OFFICER

6.1 Overview

There are literally thousands of contracting officers that work in all the government agencies who award and administer government contracts. These men and women determine exactly how government contracting is conducted. The rules they operate under are the Federal Acquisition Regulation (FAR). It may be possible to read the FAR and be successful in dealing with contracting officers. However, the FAR is a voluminous document which is interpreted by contracting officers, and, if their interpretation is not the contractor's, he will have a difficult time being successful.

The areas that will be covered in this section are the origins of the contracting officer, his training, his background, and the actual organization encountered in contracting offices.

6.2 Origins of the Contracting Officer

The term contracting officer is not new, however, the term as it has been defined in the Federal Acquisition Regulation (FAR) has associated with it some definite connotations.

The Federal Acquisition Regulation is a relatively new guideline which came into effect in 1984 as a result of the

Federal Government trying to consolidate and streamline its contracting policies and procedures. Prior to the 80's, each agency had its own set of rules. While each agency's rules were all relatively similar, they had enough differences between them to allow the agencies to operate without the restraints and the system of checks and balances that allow for easy external agency review. In fact, a direct result of these outside agency reviews and certain discrepancies found was the inception of a unified federal procurement regulation. One of the discrepancies found during these reviews in the late 70's was that the people who had the authority and who were initiating contracting actions were improperly trained. Also, in many cases, contracting officers did not know the regulations they had to enforce. One of the FAR's major efforts was to remedy the lack of knowledge of these individuals.

The contracting officer of the FAR will now be defined. Federal Acquisition Circular 84-33 dated February 22, 1988 states contracting officers shall be selected on the basis of "the complexity and dollar value of the acquisition (and)... the candidates experience, training, education, business acumen, judgement, character, and reputation." The document goes on further to say that the appointment of the contracting officer will be in writing. What this equates to is that the contracting officer of today is "warranted" or has

the authority to effect the contracting action to which he has been assigned.

Some of the items the FAR lists are not surprising - experience, judgment, character and reputation. However, these and the other items should be of concern to the contractor because how well he understands how these terms apply to a contracting officer will directly affect a contractor's successful dealings in government contracts.

The contracting officers of today are expected to have college degrees or at least a substantial background in business administration, law, accounting, engineering or related fields [12. p. 1-6]. What this means to a contractor is that he is dealing with individuals that come to their job with a solid background in respected fields and are then educated more precisely in the art of government contracting. The education they receive in government contracting is by no means inconsequential. In fact an entire educational strategy has been put into place through the FAR and Presidential Executive Order 12352 which called for the establishment of a procurement career management program.

6.3 Contracting Officer Training Requirements

The career management program establishes the particular areas of study required to become a Warranted Contracting Officer. These areas of study include:

1. Formal Advertising. This includes procedures, bidder responsibility, responsiveness and timeliness of bids, evaluation and verification of bids for award, and bid protests.

2. Negotiations. This encompasses circumstances permitting negotiations, negotiation procedures, simplified source evaluation selection techniques, and offeror responsibility.

3. Cost and Price Analysis. This is comprised of fair and reasonable price determinations, economic concept of value cost and profit, profit factors, and simple cost control techniques.

4. Contract Administration. This includes proper authority for change orders/supplemental agreements, identification of equitable adjustment factors, quality assurance, delays, suspension of work, labor provisions, contract payment procedures, disputes and remedies, liquidated damages, contract terminations, and contract close out.

5. Contract Law. This includes basic principles, federal contractual authority and federal procurement regulations.

It can be seen from this extensive list of requirements that it is no easy task to become authorized to act as a contracting officer [10, p.42].

6.4 Who are the Contracting Officers

Now that the procedure has been established as to how one can become a contracting officer, the focus will be shifted to who can become a contracting officer. The various types of contracting officers contractors are apt to deal with in government contracting will also be reviewed. As was previously stated, certain ideas that are inherent to becoming a responsible person in an organization do not come as a revelation - a person with sufficient experience, good judgment, fine character, and reputation. How does the government measure these qualities and how does it apply them to the personnel authorized to act for the government? The various levels of warranting experience and judgement are equated with time in service (civil or military). The character and judgement measure is determined by the success in the promotion process an individual has attained. Simply put the contracting officer career path is an apprentice type system where entry level personnel progress through the ranks learning their specific job and establishing their reputation as competent, trustworthy individuals. They are then promoted on that basis to higher pay grades and more responsibility, which in this context equates to a higher level of contract warranting.

The idea of warranting levels should not deceive a contractor into believing that an individual with a particular

warranting level has the authority to act in all contracting matters. Along with the contracting officer warranting level comes a particular designation for what type of contracting action each individual may act upon. There are three broad categories a warrant level of authority can be assigned to: contracting officers who award contracts, typically called procurement contracting officers (PCO), administrative contracting officers (ACO), who deal with the contractors during the execution of the contract, and termination contracting officers (TCO), who are responsible for settling terminated contracts [12, p.1-6]. Warrant levels are also assigned by the type of contract with which a person may be involved. The different types of contracts can include construction, A&E services, purchase of equipment and material, automatic data processing services, and design-build contracts [9, sect. 2001, p.6].

The contracting officer's specific warrant and warrant level are important to the Navy contractor because they delineate exactly what that individual is authorized to do in contracting matters. The courts have ruled that the actions of the contracting officer are not always binding upon the United States Government particularly if they exceed the authority level of the particular contracting officer [2, p.72]. However, this should not be taken to mean that contracting officers have limited or diluted authority when it comes to making contracting decisions. As previously

stated, the courts have ruled on contracting officers' actions - in other words, when a dispute arises over a decision made by a contracting officer, and the process of appeal to more senior contracting officers does not resolve the dispute, litigation, often costly and time consuming, is the only recourse for satisfaction.

6.5 The Navy Construction Contracting Officer

The previous sections have concentrated on the contracting officer as it is defined in the FAR and the various agencies within the Federal Government that have and use contracting officers. The focus will now shift to the U.S. Naval Facilities Engineering Command and what contracting officer warranting means to Navy contractors (figure 6.5.1).

The Naval Facilities Engineering Command (NAVFAC) is authorized to award and administer among other things, construction, alteration, and repair contracts, architect and engineering services contracts, dismantling, removal or demolition and improvements contracts and civil works contracts. Each of its contracting officers is warranted to act on a particular type and dollar value of contract. NAVFAC has both civil service and military contracting officers who are given their warrants to act on contracting matters in accordance with the FAR and other amplifying documents including the DOD FAR Supplement (DFARS), the Navy Acquisition Regulation Supplement (NARSUP) and the NAVFAC Contracting

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Manual (known as the P-68). Each of the amplifying documents only serve to further delineate what is required in the FAR to assign individuals the authority to act for the government in contracting matters. The following is a list of the various levels of contracting officer warranting and the typical experience and background of the individuals who would be given a particular level authority within NAVFAC.

LEVEL I - Regional commanders typically having at least 20 years experience and having the responsibility for activities with at least 600 personnel. A level I contracting officer has the authority to act in contracting matters above 5 million dollars.

LEVEL II - Senior personnel within specific regions having at least 15 years experience and having responsibility for organizations with at least 100 personnel. Level II contracting officers have the authority to act in contracting matters up to 5 million dollars.

LEVEL III - Mid career personnel in particular regional areas with at least 10 years experience typically having responsibility for organizations with at least 25 personnel. Level III contracting

officers may act on contracts up to 1 million dollars.

LEVEL IV - Junior personnel at particular activities within regional areas that have at least 5 years experience in charge of organizations with 10 personnel. A level IV contracting officer has the authority to act in contracting matters up to 500 thousand dollars.

Level V and VI personnel are generally entry level individuals and have authority to act on contracting matters up to \$100,000 and \$25,000 respectively.

Again, the warrant level of the individual is important because actions taken which are above an individual's warrant level are not always upheld.

The particular contracting actions that a Navy construction contractor may be involved with and the various levels of warranted contracting officers that firms may encounter will now be discussed.

Often in NAVFAC, the procuring contract officer is not the same individual as the administering contract officer. This means that the contracting officer a contractor will deal with during the pre-award phase of a project will not have the

same background on the project or knowledge of the pre-award proceedings. The administering contracting officer will follow the contract documents and will not recognize any information, oral agreements, or informal documents that may have been made or agreed to prior to contract award. However, when disputes do arise, it is possible to elevate the resolution of the dispute to a more experienced and higher warranted contracting officer.

The chain of command also needs to be understood. Generally a contracting officer in NAVFAC will have two bosses. One will be the customer for whom the facility is being built, and the other will be the area officer in charge of construction. A contractor should be sensitive to each, since what he constructs will be evaluated by each party.

Another duty of the contracting officer, and possibly the most important to contractors, is the ability to obligate funds. Only a warranted contracting officer has the authority to obligate funds on behalf of the United States Government. The obligation of funds can come in the form of obligating funds for the payment of an existing contract or of obligating funds to pay for modifications to a contract. Knowing who is able to obligate funds cannot be stressed enough. During the construction phases of a contract it is of the utmost importance to a contractor to be aware of who exactly is directing him to accomplish work outside the terms of the contract. If an improperly warranted or unwarranted individual

directs a contractor to proceed with work which would require reimbursement, the contractor is at risk of not being able to recover funds expended in the performance of that work. A contractor would be particularly vulnerable to not being able to seek reimbursement if he has knowledge that the work is not being requested by a warranted individual with the authority to act in the particular instance [2, p.71].

The organization the contracting officer works in and how his warrant can assist in, or detract from, the execution of a construction contract is important to understand. The largest unit the contractor will usually have contact with will be the engineering field division (EFD), (figure 6.5.2). The contractor will normally deal with the EFD only in cases where disputes occur over changes to a project involving large sums of money. In this discussion attention will be concentrated on the local offices with whom contractors will work. When will a contractor first meet the contracting officer? The first formal dealings with the contracting officer will be prior to the submission of bids. Contractors will meet with the contracting officer or his representatives at site visits prior to bid submission and will address any questions regarding the bid package to the procuring contracting officer. At this juncture the contracting officer's warrant level is not a significant factor and the contractor need only remember that only those items

specifically communicated by the contracting officer should be considered during the bid preparation. After award however,

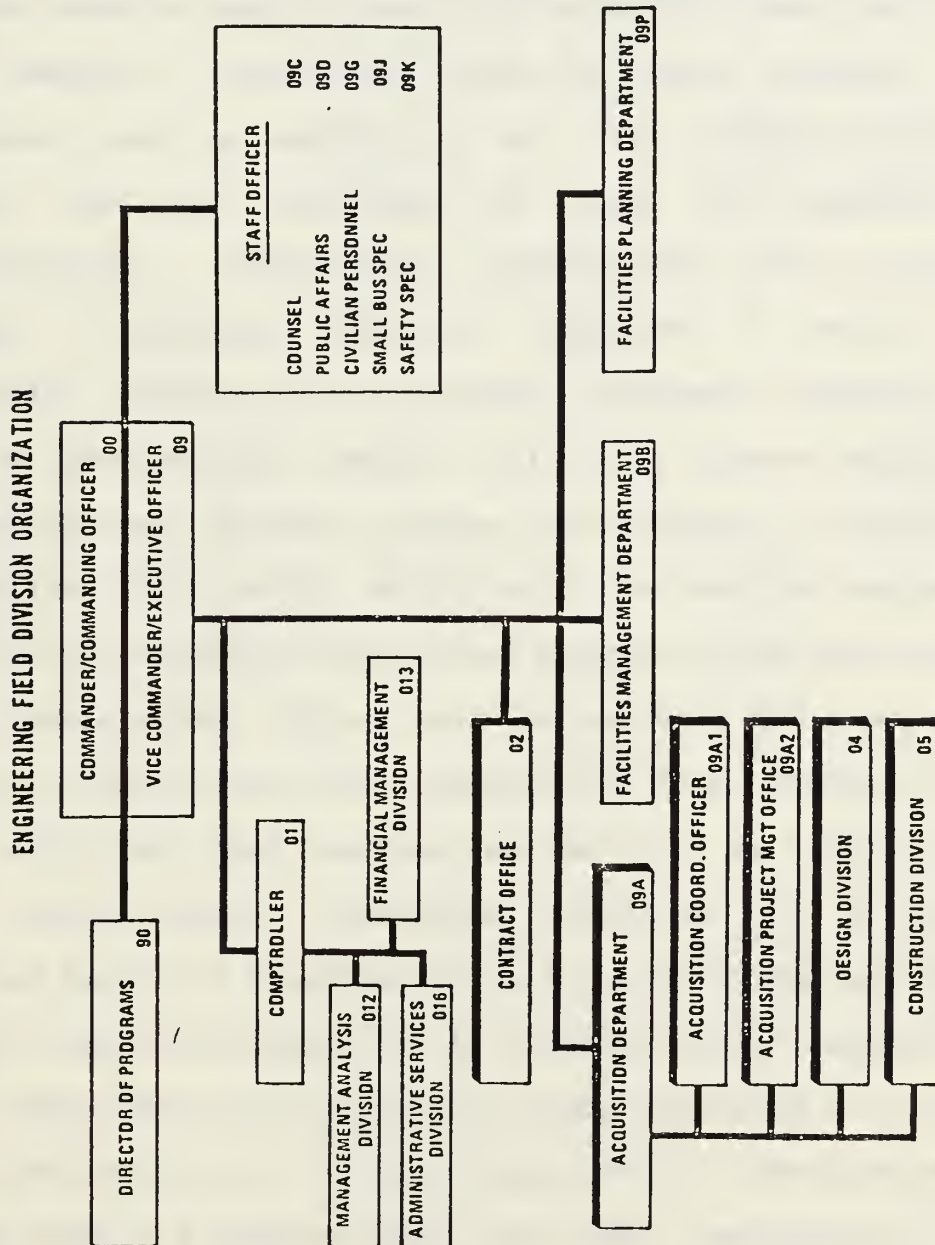


Figure 6.5.2 EFD Organization Chart

the project will be assigned to either an Officer in Charge of Construction or a Resident Officer in Charge of Construction (figures 6.5.3, 4, 5). In these offices warranting levels vary significantly and this is where the contractor must be aware of what the authority level is of the person issuing a direction. Also in these offices some individuals have no warrant at all. For example clerical personnel are not warranted as well as construction representatives, engineering technicians and project engineers. Assistant resident officers in charge of construction (AROICC) and assistant resident engineers in charge of construction (AREICC) will have limited warrants. Even the officer, resident officer and engineer in charge of construction (OICC, ROICC, REICC) will not have the authority to act in all instances (The actual duties of the individuals in the construction office will be covered in a separate section). A savvy firm will realize the limitations of the office with which they are dealing and will be alert to the issues which require immediate elevation to a higher warranting level. If a contractor is unaware of the warranting level of the individuals he is dealing with, significant delays, extra work and ultimately extra liability will occur for the contractor. It is very important for contractors to know who they are dealing with, and most importantly, know their contracting authority limitations.

OICC/ROICC ORGANIZATIONAL MODEL

LARGE/DISPERSED OFFICE

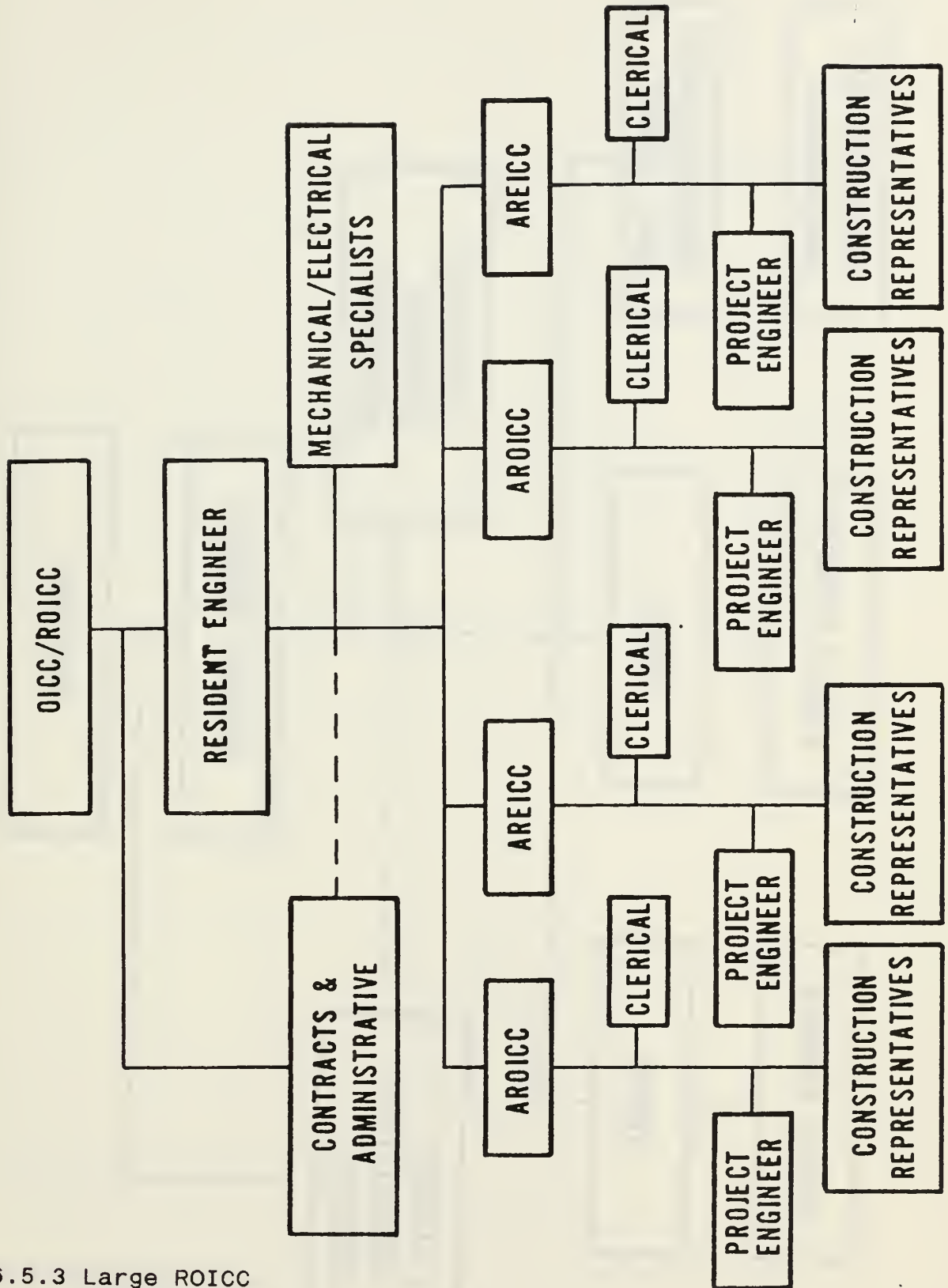


Figure 6.5.3 Large ROICC Office

LARGE-MEDIUM OFFICE

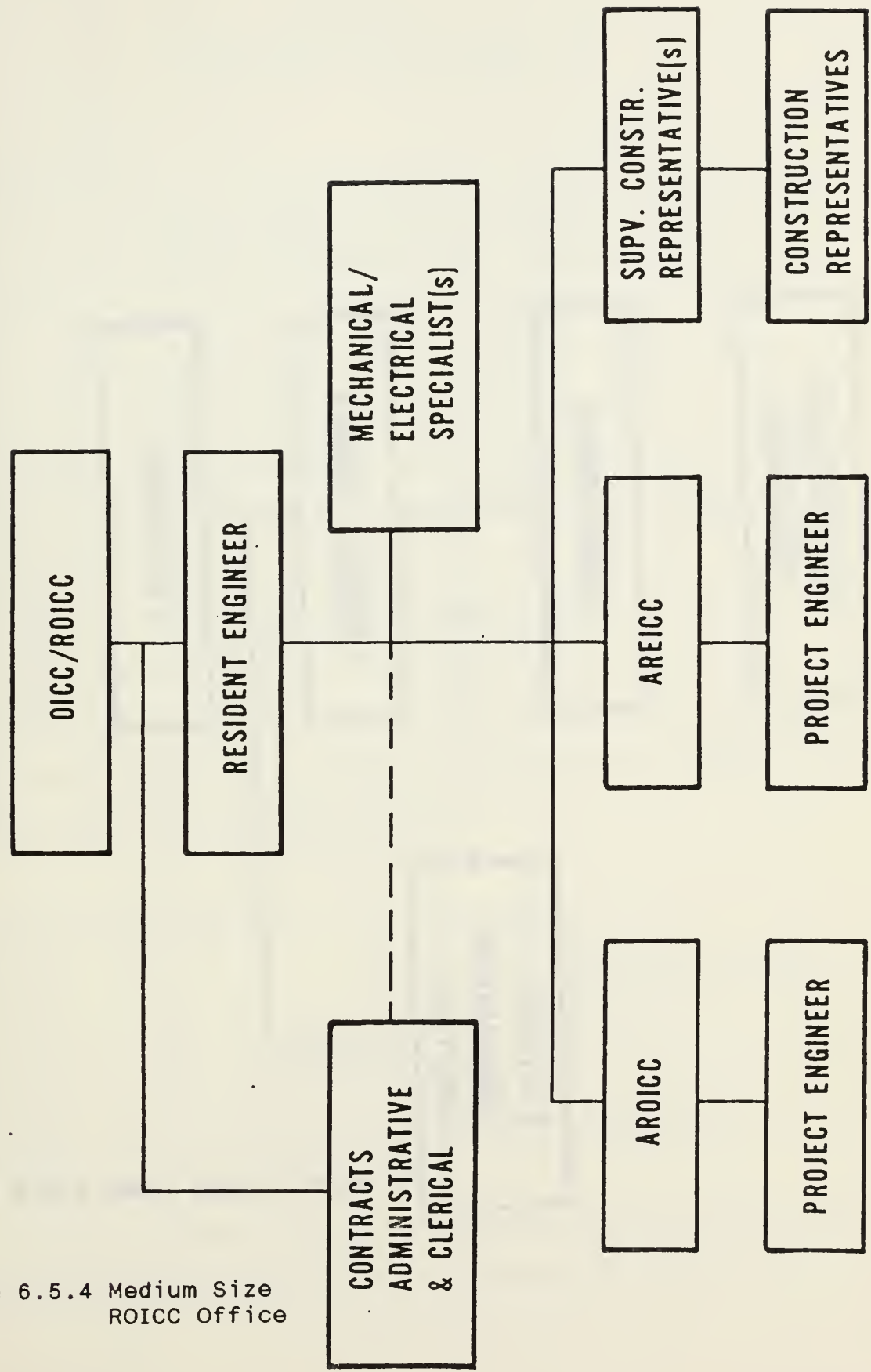


Figure 6.5.4 Medium Size ROICC Office

OICC/ROICC ORGANIZATIONAL MODEL

SMALL OFFICE

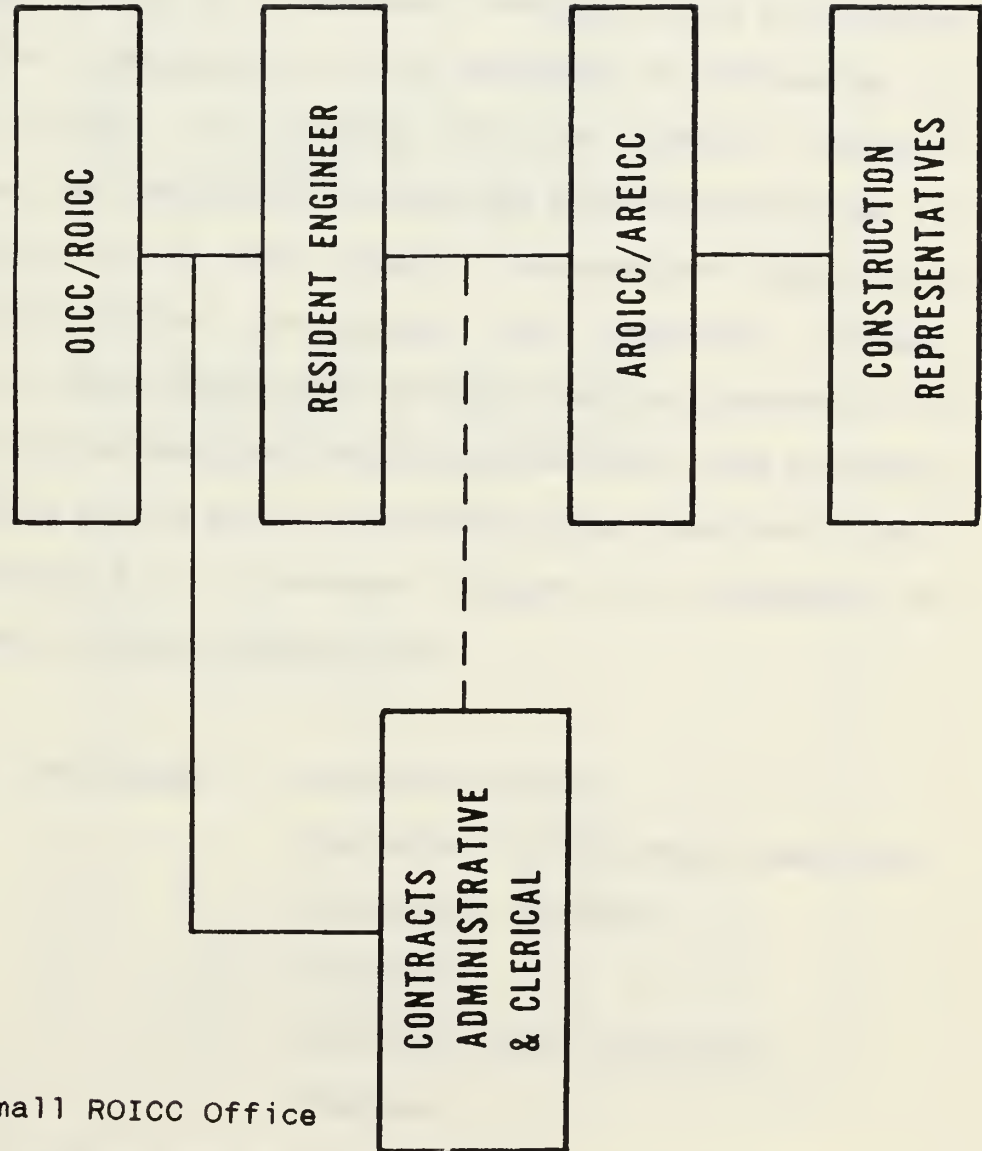


Figure 6.5.5 Small ROICC Office

CHAPTER 7

CONTRACT MODIFICATIONS

7.1 Introduction

It is rare indeed when a contract proceeds from start to finish without several modifications. In Navy construction contracts any change to a contract, whether it be an address change of the contractor or the addition of thousands of dollars of work, is handled with a formal contract modification. The procedure for dealing with modifications is found in part 52 of the Federal Acquisition Regulation entitled Solicitation Provisions and Contract Clauses (appendix f). The clauses are incorporated by reference in every construction contract awarded by the Navy. The contract clauses address nearly every conceivable event that would call for a modification to a contract (figure 7.1). Examples of commonly used contract clauses are:

FAR Part 52 Paragraph #	Contract Clause
52.212-11	Variation in Estimated Quantity
52.212-12	Suspension of Work
52.233-01	Disputes
52.236-02	Differing Site Conditions
52.243-04	Changes

In this section the various types of modifications will be reviewed. The procedure for initiating, performing and

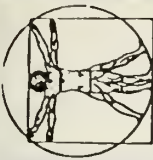
<div>  <div> wagner • hohns • ingalls • Inc. consultants to the construction industry </div> </div> <div> <div>CLASSIFICATIONS OF CONSTRUCTION CLAIMS</div> </div>				
CONSTRUCTIVE CHANGES	ACCELERATION	CHANGED CONDITION	SCHEDULE CHANGE	DELAYS
PLANS & SPECIFICATIONS <ul style="list-style-type: none"> • ERRORS • AMBIGUITIES • OMISSIONS INTERPRETATION <ul style="list-style-type: none"> • ERROR • OVERINSPECTION • IMPROPER REJECTION PROJECT CONTROL <ul style="list-style-type: none"> • CHANGE SEQUENCE • CHANGE METHOD NON DISCLOSURE IMPRACTICABILITY IMPOSSIBILITY	DIRECTED OWNER ENFORCED COMPLETION DATE IN SPITE OF EXCUSABLE DELAYS	SUBSURFACE DIFFERENT THAN EXPECTED <ul style="list-style-type: none"> • ROCKS, BOULDERS • ORGANIC • WATER MATERIALLY DIFFERENT THAN EXPECTED <ul style="list-style-type: none"> • HARDER • SOFTER • WETTER 	OWNER (OR A/E) <ul style="list-style-type: none"> • SUSPENDS WORK • TERMINATES WORK • REVISES SCHEDULE • FAILS TO APPROVE CONTRACTOR <ul style="list-style-type: none"> • POOR PRODUCTIVITY • FAILURE OF SUBCONTRACTOR • SUSPENDS OWN WORK 	OWNER (OR A/E) <ul style="list-style-type: none"> • LATE SHOP DRAWING APPROVAL • UTILITY NOT AVAILABLE • UNTIMELY CHANGES • DIRECTED SLOWDOWNS CONTRACTOR <ul style="list-style-type: none"> • REWORK • LACK OF PRODUCTIVITY • POOR MEANS OR SEQUENCING • PROCUREMENT FAILURES • INABILITY TO MANAGE
				MISCELLANEOUS
				MATERIAL BREACH REFUSAL TO ACCEPT COMPLETED WORK EARLY OCCUPANCY CHANGE IN SCOPE CARDINAL CHANGE WRONGFUL TERMINATION

Figure 7.1.1 Causes for Contract Modifications

receiving payments for changes will be discussed. The procedure for resolving disputes over problems which arise as a result of changes in the contract will also be covered. Finally the claims process will be briefly examined.

7.2 Types of Modifications

Changes can be initiated by either the contractor or the Navy during a project. The three types of changes are administrative, field, and changes involving time and/or money (appendix f). Administrative changes usually adjust some written or minor construction detail in a project. The change of address of either the contractor or the administering contracting office would be an example of an administrative change. Administrative changes generally do not involve a change in contract time or price. However, if the contract price or time were initially calculated incorrectly they can be adjusted with an administrative modification. Administrative changes are made on the same form as constructive changes and must be agreed to by both parties. Modifications agreed to by both parties are called bilateral modifications. The Navy has the authority to issue modifications that are not agreed to by the contractor. This type of modification is called a unilateral modification and will be discussed later in this section.

Field changes occur at the project site and involve no significant change in contract time or price. They are usually

handled at the Navy inspector - contractor superintendent level. Field changes most often arise when problems occur in the plans due to a lack of coordination of the engineering disciplines. For example an HVAC duct may have been drawn to interfere with a structural column. To resolve the discrepancy, the duct needs to be moved an inch or slightly deformed to allow it to clear the column. Inconsequential time and money are required to remedy the situation so a field change is appropriate. The documentation required for a field change is a note filed with the contractor's daily report to the inspector and the Navy inspector's daily report. Also the contractor should make a redline change to the as-built drawings that must be submitted at the end of the project. A contractor should be open to field changes since the swift and friendly resolution of minor problems in the field can lead to a good rapport between the Navy and the contractor.

Changes involving time and/or money are by far the most important of the modifications to be discussed. The reasons for these changes can range from unseasonably inclement weather to an actual request from the Navy for additional work. Depending on the size and type of project these changes could range from a few, low dollar value, modifications to hundreds of modifications totaling hundreds of thousands of dollars. Resolution of these changes can often take up a majority of the contractor project manager's time. The usefulness and importance of the construction contract

clauses become most evident in determining how to proceed on changes involving time and money. To discuss each clause and their common interpretation could fill volumes. Here the general procedures for dealing with money/time modifications will be examined.

The best way for a contractor to receive adequate compensation for money/time changes is to:

1. Be honest
2. Have impeccable documentation
3. Be well organized
4. Be correct in the request

7.3 Honesty in Modifications

Being honest should be the natural and normal way of doing business. However, since the story broke of the \$600 dollar toilet seats and the overcharging occurring in the construction of nuclear submarines, honesty needs to be addressed. Navy and civilian personnel see the news as well as anyone. They have dealt with a large number of contractors and unfortunately some of the contractors have been less than honest. Consequently the people contractors will be dealing with in the Navy will approach contractors with a less than trusting attitude. It is of the utmost importance for contractors to establish their integrity, honor and professionalism at the outset of dealings with the Navy. When

trust has been earned a project will proceed much more smoothly.

7.4 Documentation for Modifications

Documentation is the key to receiving adequate compensation. From the first inklings of a change, all events surrounding the change should be documented in writing. The project superintendent and the project manager should spearhead this effort and should encourage all other personnel to write what they know. The few minutes they take to document a situation could save hours of time and money later. Items to be documented should include:

1. Who initiated the change.
2. Why the change is necessary.
3. Alternatives to the change.
4. The impact of not accomplishing the change.
5. The impact on the schedule of the change.
6. A date when the change, if unresolved will result in additional costs.
7. A complete and accurate estimate of the time and money involved in a change.
8. The source of the prices and times quoted in the estimate.

Items 1 through 3 should be noted in a request for information (rfi). Items 4 through 6 should be addressed in a letter from the contractor to the contracting officer. Item 7 should be

completed on a government estimating form and item 8 should be available for reference purposes during negotiations. An rfi, and government estimating form are contained in appendix h. Armed with this information the contractor can generally expect a quick resolution of changes with a minimum amount of disruption to the project.

7.5 Organization in the Presentation of Modifications

Even with a large amount of documentation, if it is not presented in an organized fashion snags can develop that may negate the early effort at documentation. A lack of organization in the presentation of an estimate and its back-up can result in a number of problems. A sloppy presentation indicates lack of professionalism, and an incoherency of thought. The contractor should always try to enhance his image due to the negative stereotype which has developed. A sloppy presentation could lead to contradictions in what is presented. While the contradictions may be inadvertent, it will appear to the Navy that the contractor is lying and will foster feelings of mistrust. Being organized costs no more money and can improve a contractor's image and impress the organization that holds the money.

7.6 Recognizing the Requirement for a Modification

Being honest, well documented, and organized will not make a modification occur if one is not needed. A contractor

cannot allow emotions to enter into the determination of entitlement nor can he take the advent of a change to get well financially.

The FAR contract clauses discussed earlier should be a contractor's only guide in determining whether to seek entitlement. The contract clauses will be the only determining factor the Navy will use. In most cases whether entitlement is deserved is not the crux of the dispute. Usually it is the amount of compensation which is the point of contention.

A change occurring in a project is viewed by some contractor's as the time to make money. When contractor's bid jobs they will have a tendency to lower profit and costs to remain competitive and win the contract. After award however, the contractor's only means of increasing his profit is working smarter than he anticipated on his bid or by inflating his estimates on changes. This is not to say that the contractor falsifies his estimate, however, he may choose a more expensive method or include the most pessimistic time for accomplishing the work knowing that he will accomplish the work in a shorter period of time, expending less capital. Navy personnel administering construction contracts have a duty to seek fair and equitable resolutions of changes and to ensure the Navy is charged the best price. It is in the interests of the Navy and the contractor to present the information as it is and to not seek to take advantage of one another. A feeling

of trust must prevail and the contractor should take every opportunity to improve his image.

7.7 Performing Changes

Ideally the contractor and the Navy will reach a bilateral agreement on the time and money involved in a change prior to the accomplishment of the change. The FAR requires it and the Navy strives to have the bilateral agreement signed as quickly as possible. HOWEVER:

1. There are a number of checks and balances which have been installed in Navy contracting to ensure funds are not expended incorrectly.
2. Navy contracting is also a bureaucracy that is some times slow to move.
3. Despite the best intentions of Navy civilian and uniformed personnel the time required for acting on all modifications prior to the work being necessary is not available.

To best illustrate why it is difficult to process a change from its initiation to its bilateral signing the steps required will be listed:

1. The need for a contract modification becomes known.
2. A request for proposal is issued to the contractor.
3. A government estimate is prepared.
4. Funds in the amount of the government estimate are requested from the comptroller via: the ROICC contract

specialist, public works project manager, the designer and public works contract specialist to be earmarked for the change. Each of these individuals has the authority to disapprove the change.

5. The contractor submits his estimate.
6. The Navy contracting office receives a guarantee of funds from the comptroller.
7. The Navy and the contractor negotiate to try to reach a fair and equitable price for the change.
8. The Navy formally writes the modification.
9. The formal modification is sent to the contractor for signing.
10. The contractor returns the modification to the ROICC office to be signed by the contracting officer.
11. The contracting officer signs the modification.
12. The contractor includes on his next monthly invoice request for payment for the modification.

As can be imagined, problems can arise at any one of the steps involved from the inception of a change to the actual payment. Seasoned contractors all have stories of how they completed work and did not receive payment for sometime, were underpaid for the work or did not receive payment at all. THESE ARE ISOLATED CASES. It is almost always in the contractors best interest to proceed on a pending modification if there are no

significant discrepancies in his and the contracting office's position on the modification. As was stated in the risk section of this paper the Navy is obligated to pay for all work accomplished under the terms of the contract. Further, the Courts have held that the Navy must pay for all benefits gained from a contractor. To delay with the progress of work on a modification until bilaterally agreed to may be technically correct the contractor will find that it is rarely the best policy to follow.

7.8 Disputes

There are times when the Navy and the contractor will not agree on the time or money involved in a change or even whether a change is necessary. When this occurs the contracting officer is authorized to issue a unilateral modification. A unilateral modification directs the contractor to accomplish the work described in the request for proposal and calls for subsequent negotiations when the change has reached 80 percent completion and a better idea of the actual costs can be determined. The Navy always tries to reach a fair and equitable price for a modification. If the contracting office and the contractor can still not reach agreement on the price of a change after 80 percent of the work has been completed the contractor is directed to FAR part 52 paragraph 52.233-01 titled Disputes.

The disputes clause outlines the procedure for elevating the disagreement to a higher level than the local contracting office and, at this point, more senior members of the contracting firm should become involved. The procedure for the contractor to elevate an issue is to merely request in writing a Contracting Officer's decision. Depending on the dollar value of the disagreement other certifications may be required. All necessary documentation is listed in the disputes clause of the contract.

7.9 Claims

If the contractor is not satisfied with the Contracting Officer's decision he may elevate the issue to an even higher level - The Armed Services Board of Contract Appeals (ASBCA). Lawyers, if not already involved now become the key players in the resolution of the dispute. The contractor should weigh the matter to determine if the cost benefit ratio is advantageous enough to pursue a claim. The costs of the change may be insignificant compared to the cost of obtaining the compensation. However, once the decision is made the contractor needs to ready himself for a long and protracted process.

Before proceeding to court the contractor must feel strongly that:

1. He is legally right and his position is reasonable.
2. The contractor can prove he his right.

3. The contractor can prove his damages and the value of those damages.

Item one is fairly obvious, however, if the impact of change significantly impacted the contractor financially, before proceeding with the claims process he should consult his lawyer on this question. Items two and three should be considered together. Often by the time a claim reaches the ASBCA, the project has been completed for some time and even the nature of the dispute not to mention the impact of the dispute may be hard to actually define. This leads back to the idea of documentation. If the history of the dispute was not well documented at the time it occurred, it will be incredibly difficult to prove the actual value of the damages. Simply, if there is any other way to resolve an issue do not litigate.

CHAPTER EIGHT

BENEFICIAL OCCUPANCY

8.1 Introduction

Beneficial occupancy of the facility by the customer, after a quality project, should be a goal of the highest priority for the contractor. It should be a priority goal because it indicates the substantial completion of a project which will allow him to pursue more work. It is also the point where significant money held by the Navy as retention will be released. Finally it denotes the end of the formal contract time which is the point at which the contractor is no longer liable for liquidated damages. This section will section the procedure for establishing the beneficial occupancy date (bod), the connotations applied to bod, and the pitfalls the contractor may encounter during the bod portion of the contract will be covered.

8.2 Establishing the Beneficial Occupancy Date

The procedure for establishing bod is simple but the preparation involved is extensive. To establish bod the contractor need only contact the ROICC office and schedule a date for an inspection. The inspection is to demonstrate that the project is substantially complete and the customer may now use the facility for its intended purpose. To prepare for this event the contractor must:

1. Ensure all but the slightest details of the project are complete.
2. Ensure that no minor detail will prevent the customer from using the facility.
3. Be able to demonstrate that all systems are operable.
4. Have conducted an informal inspection with the ROICC conrep or engineering tech to identify any details that must be completed prior to bod.
5. Complete the discrepancies noted at the informal inspection.

If all of the items listed are complete the final bod inspection the bod will present no problems.

8.3 The BOD Final Inspection

Typically the AROICC/AREICC, the customer, public works maintenance personnel and the contractor will attend the final inspection. The contractor should be prepared to present the project to these individuals. The contractor should have an individual present that is intimate with all the aspects of the project who can readily answer questions, demonstrate operation and maintenance procedures, and highlight the quality of the completed project.

After the inspection a list of discrepancies, usually called a punch list will be developed. This list should contain only minor items such as paint touch ups, minor

labeling, or operation and maintenance manuals (figure 8.3.1).

DISCREPANCIES

1. Submit 2 sets of 'Full Size as built' per specs 02441 1.2.4.
2. Submit O&M manuals per specs 02441 paragraph 1.2.5.
3. Provide the following spare parts per specs 02441 paragraph 1.2.6:
 - a. 2 Additional sprinkler heads of each size and type.
 - b. 4 Irrigation controller housing keys.
4. Submit record of test conducted on the recording gauge per specs 02441 paragraph 3.2.1.6.
5. Spray to kill weeds growing on the infield.
6. White paint stripes peeling and cracking where paint was applied too thick.
7. Surface test with 10' straight edge where asphalt is not to vary more than 1/8". Per specs 02680 paragraph 2.1.6.3
8. Several places along inside edge of asphalt that drainage slot in the curb is higher than asphalt and is not allowing adequate drainage.
9. The track surface is uneven at joints between asphalt runs, and is most noticeable in lanes 3 & 7.
10. Repair north goal post that was broken by the contractor early in the project.
11. Power steering mark in the track east side next to repaired track section.

Figure 8.3.1 Sample Punch List. Minor details should be the only items listed on a punch list.

The punch list should be completed at the contractor's earliest opportunity. When the punch list is completed the contractor may submit his final invoice and release and will receive within 30 days all outstanding money.

8.4 Connotations Associated with the BOD

The connotations associated with bod are:

1. The release of all money except that required to complete the items on the punch list.
2. The beginning of a one year warranty period on all aspects of the project.
3. The release of liability for liquidated damages that are required if the project bod is after the formal contract completion date.

The release of all funds outstanding except for those required to cover the cost of completing punch list items should allow the contractor to direct his attention to other projects. Also it should significantly free up the contractors bonding capacity.

8.5 The Warranty Period

A one year warranty period on all aspects of a project begins when bod is established. The warranty period may be longer on certain systems like roofs. During the warranty period contractors must be available to repair, replace or rework any discrepancies noted after the bod. Contractors

again have the opportunity to enhance their image by responding quickly and professionally to any warranty calls they receive.

8.6 Liquidated Damages

Liquidated damages (Lds) are a compensation paid to the government in the event the project is not available on the formal contract completion date. They should not be considered a penalty and the courts will not enforce penalty clauses [14, p.107]. Liquidated damages are proper reimbursement of the Navy for losses which they will incur due to the unavailability of the facility. The amount of the Lds are listed in the general paragraphs of the contract specifications and range from \$100 to \$2000 dollars per day depending on the project [4, p.158]. Typical Lds are between \$50 and \$500 and are calculated for each project using a standard formula.

It is important to understand that the contractor will be assessed liquidated damages if he fails to meet the contract completion date. The contracting officer has no authority to waive Lds regardless of his relationship with the contractor. The Assistant Secretary of the Navy for Shipbuilding and Logistics or his superiors are the only personnel that are able to waive the assessment of liquidated damages and it is rare that they do so. Consequently the contractor must be very

sensitive to the contract completion date make every possible effort to bid his project.

8.7 The Pitfalls Encountered at BOD

The pitfalls the contractor may encounter in his efforts to bid a project are numerous. Many contractors have performed successfully and, at a profit, up to the point of bid but because they were not aggressive enough in establishing bid have lost their profit and have actually lost money on the project. The possible pitfalls are:

1. Failure to receive long lead items.
2. Failure to install proper equipment.
3. Failure to provide adequate supervision at the end of a project to ensure proper completion of major items.
4. Failure to inform the contracting officer that the facility is ready for bid.

Inadequate planning to ensure long lead items such as doors, transformers or hvac units is an easily avoidable problem. If this occurs because of an inordinate amount of time for submittal review by the Navy the contractor may be able to request an extension of the contract completion date. However if the contractor is a party to the delay of submittal approval, i.e. improperly submitted shop drawings, not providing complete information on the item or, late submission of the required information the contractor will not be given

a time extension. Proper management, foresight and planning will enable the contractor to avoid this problem.

Failure to install proper equipment and thereby delaying bod is another area the contractor can easily avoid. It is imperative that the contractor understand that a disagreement over what is called for in the specifications is not just cause to install something else. Often a contractor will be able to get a better price on an item that meets most of the requirements called for in the specifications. It is not acceptable to substitute the item and, more importantly, the courts will not uphold a contractors decision to substitute. If a contractor provides what is called for in the specifications he will not have this problem as a hindrance to establishing bod.

As the project begins to wind down the contractor may have a tendency to shift his resources to more active projects. This is a sound practice, however, if the shift of resources is so great that critical items are not completed which are essential to bod the contractor is making a grave error. There have been cases where a contractor has shifted his resources, lost continuity on the necessary items for completion and instead of finishing early has completed well after the contract completion date. It is wise to hold the superintendent on the job until bod and then allow other personnel not familiar with the project to complete punch list items.

The most easily avoidable pitfall is that of actually scheduling the bod. Many times a project will be ready for bod but because the contractor makes no effort to hold the bod inspection the contract completion date passes by without bod. Contractors must have as their goal throughout the contract to establish bod.

CHAPTER NINE

CONCLUSIONS

9.1 Conclusions

The conclusions drawn from the research conducted are:

1. There is a certain amount of risk in contracting with the Navy. However, if a contractor is willing to follow the plans and specifications he will be successful.
2. The decision to bid Navy projects should be based on a number of factors. Proper evaluation of these factors will result in a contractor bidding the right work for his firm.
3. Bidding strategy is important in winning contract award. The contractor must know his competitors. The contractor must take the time necessary to compile a proper bid and follow bidding instructions precisely.
4. The importance of the information gained pre-construction conference cannot be stressed enough. Knowing the duties of the personnel at the Navy construction office will assist in the conduct of a project. Certain documents are essential to receive payment.
5. Contracting officers are well trained, experienced individuals that deserve the contractors respect and cooperation.
6. Contract modifications can be quite involved and should be entered into with an air of trust. Contract modifications

should not be allowed to delay a project and are not a money making opportunity. Avoiding litigation should be a contractor goal.

7. Establishing the beneficial occupancy date is second only to being paid in a contractor's priority list.

CHAPTER TEN

RECOMMENDATIONS FOR FUTURE RESEARCH

10.1 Recommendations for Future Research

In researching the areas of concern for prospective Navy construction contractors, at every turn there were topics that presented themselves for future research. These include:

1. Federal Acquisition Regulation contract clauses
2. The claims process
3. Bonding
4. Insurance
5. Managing risk in construction
6. Deciding which projects to bid.
7. How to be competitive in lump-sum fixed price contracts
8. Specification interpretation

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APPENDIX A
INSTRUCTIONS TO BIDDERS

A.1 Instructions to Bidders

This appendix contains a typical package of instructions to bidders that a contractor would obtain prior to submitting a bid on a project.

INSTRUCTIONS TO BIDDERS
(CONSTRUCTION CONTRACT)

1 SOLICITATION DEFINITIONS - SEALED BIDDING (APR 1985): "Offer" means "bid" in sealed bidding. "Solicitation" means an Invitation for Bids in sealed bidding. (FAR 52.214-1)

2 BIDS:

(a) Instructions to Bidders and Standard Form 1442 (Solicitation, Offer, and Award) shall be observed in the preparation of bids. Bidders shall affix their names and return addresses in the upper left corner of the bid envelope. Envelopes containing bids must be sealed.

(b) Bids shall be submitted in triplicate on Standard Form 1442 (4-85) and, for bids of \$25,000 or greater, shall be accompanied by a bid guarantee as stipulated in paragraph 11, Bid Guarantee. Bid security shall be in the sum of 20% of the largest amount for which award can be made under the bid submitted, but in no case to exceed \$3,000,000.00.

(c) All hand delivered bids must be deposited in the bid box of the Office of Chesapeake Division, Naval Facilities Engineering Command, Building 208, Washington Navy Yard, Washington, D.C. 20374-2121 prior to the time and date set for bid opening. Any bids submitted by hand after the time set for receipt will not be accepted.

(d) The basis of bid shall be lump sum price for the entire work, complete and in accordance with the Instructions to Bidders and Contract documents.

3 PRE-BID SITE VISITATION: To inspect the site of the work prior to bid opening, an appointment must be made with Mr. Richard Ocheltree, Public Works, telephone (202) 767-1037. Site visits shall be arranged at least 24 hours in advance.

4 CONDITIONS AFFECTING THE WORK: Bidders should visit the site and take such other steps as may be reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work and the cost thereof. Failure to do so will not relieve bidders from the responsibility for estimating properly the difficulty or cost of successfully performing the work. The Government will assume no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to the execution of the contract, unless included in the Invitation for Bids, the specifications, or related documents.

5 NOTICE OF PRIORITY RATING FOR NATIONAL DEFENSE USE (MAY 1986): Any contract awarded as a result of this solicitation will be a DO-C2 rated order certified for national defense use under the Defense Priorities and Allocations System (DPAS) (15 CFR 350), and the Contractor will be required to follow all of the requirements of this regulation. (FAR 52.217-7)

6 EXPLANATION TO PROSPECTIVE BIDDERS (APR 1984): Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective bidders before the submission of their bids. Oral explanations or instructions given before award of a contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders. (FAR 52.228-1)

7 AVAILABILITY OF SPECIFICATIONS LISTED IN THE DOD INDEX OF SPECIFICATIONS AND STANDARDS (DODISS) (APR 1984): Single copies of specifications cited in this solicitation may be obtained by submitting a written request to the supply point listed below. The request must contain the title of the specification, its number, the date, applicable amendment(s), and the solicitation or contract number. In case of urgency, telephone or telegraphic requests are acceptable. Voluntary standards, which are not available to offerors and contractors from Government sources, may be obtained from the organization responsible for their preparation, maintenance, or publication. (FAR 52.210-2)

Commanding Officer
U.S. Naval Publications and Forms Center
5801 Tabor Avenue
Philadelphia, PA 19120
Telex No: 834295
Western Union No: 710-670-1685
Telephone No: (215) 697-3321

AVAILABILITY OF SPECIFICATIONS AND STANDARDS NOT LISTED IN DODISS, DATA ITEM DESCRIPTIONS NOT LISTED IN DOD DIRECTIVE 5000.19L, VOLUME II, AND PLANS, DRAWINGS, AND OTHER PERTINENT DOCUMENTS (SEPT 1987). The specifications, standards, plans, drawings, descriptions and other pertinent documents cited in this solicitation may be obtained by submitting a request to:

Chesapeake Division
Naval Facilities Engineering Command
Building 208, Washington Navy Yard
Washington, D. C. 20374

Requests should give the number of the solicitation and the title and number of the specification, standard, plan, drawing or pertinent document requested, exactly as cited in this solicitation. (DOD FAR SUPP 52.210-7002)

AVAILABILITY FOR EXAMINATION OF SPECIFICATIONS, STANDARDS, PLANS, DRAWINGS, DATA ITEM DESCRIPTIONS, AND OTHER PERTINENT DOCUMENTS (JUN 1977). The specification, standards, plans, drawings, descriptions, and other pertinent documents cited in this solicitation may be examined at the following location: (DOD FAR SUPP 52.210-7003)

Chesapeake Division
Naval Facilities Engineering Command
Building 208, Washington Navy Yard
Washington, D.C. 20374

8. COMMERCIAL AND GOVERNMENT ENTITY (CAGE) CODE REPORTING (OCT 1987)

In the block with its name and address, the Offeror Should supply the CAGE code applicable to that name address. The CAGE code should be preceded by "CAGE:". If the Offeror does not have a CAGE code, the Offeror may request the Contracting Officer to initiate a DD Form 2051. The Contracting Activity will complete Section A and the Offeror must complete Section B of re DD form 2051. A CAGE code will be assigned when a completed DD Form 2051 is received by the Defense Logistics Service Center, Attn: DLSC-FBA, Federal Center, 74 N. Washington, Battle Creek, MI 49017-3084. No offeror should delay the submission of its offer pending receipt of its CAGE code.

9. THE SMALL BUSINESS SIZE STANDARD APPLICABLE TO THIS CONTRACT IS AS FOLLOWS:

SIC CODE	INDUSTRY, SUBINDUSTRY OR CLASS OF PRODUCTS	ANNUAL SIZE STANDARD (MAX IN MILLIONS)
<u>1542</u>	<u>General Construction</u>	<u>\$17.0</u>

10 BIDDER'S QUALIFICATIONS: Before bid is considered for award, the bidder may be requested by the Government to submit a statement regarding his previous experience in performing comparable work, his business and technical organization, financial resources, and plant available to be used in performing the work.

11 BID GUARANTEE (APR 1984)

(a) Failure to furnish a bid guarantee in the proper form and amount by the time set for opening of bids, may be cause for rejection of the bid.

(b) The offeror (bidder) shall furnish a bid guarantee in the form of a firm commitment, such as a bid bond, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds, (1) to unsuccessful bidders as soon as practicable after the opening of bids, and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

(c) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or give a bond(s) as required by the solicitation within the time specified, the Contracting Officer may terminate the contract for default.

(d) Unless otherwise specified in the bid, the bidder will (1) allow 60 days for acceptance of its bid and (2) give bond within 10 days after receipt of the forms by the bidder.

(e) In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference. (FAR 52.228-1)

12. ACCEPTANCE OF INDIVIDUAL SURETIES:

As prescribed in FAR 28.202-2, individual sureties are acceptable for all types of bonds except position scheduled bonds. In order for the contracting officer to determine the acceptability of individuals proposed as sureties, all offerors/bidders who submit bonds which are executed by individual sureties are required to furnish the following information in support of SF-28 Affidavit of Individual Surety with their bid:

- (1) Most recent Federal Income Tax Return;
- (2) Copies of stock certificates for all stocks listed as assets
- (3) Copies of appraisals for antiques, jewelry and other valuables listed as assets;
- (4) Copies of assayer's certificates for precious metals and minerals listed as assets;
- (5) Real estate appraisals and/or tax assessments and copies of recorded deeds for all real estate listed as assets;
- (6) Copies of Certificates of Deposit for those listed as assets; and a confirmation of deposits for funds in bank accounts listed as assets, telephone number and a point of contact in that bank;
- (7) A complete list of Individual Surety's bonds exposure, to include contract number, project title, percent complete, and contracting office, telephone number and point of contact.

This information is necessary to enable the Government to evaluate the sufficiency of the surety. Failure to furnish this information may result in non-approval of the surety and a determination of non-responsibility.

13. PREPARATION OF BIDS - CONSTRUCTION (APR 1984)

(a) Bids must be (1) submitted on the forms furnished by the Government or on copies of those forms, and⁷⁸ (2) manually signed. The person signing a bid must initial each erasure or change appearing on any bid form.

(b) The bid form may require bidders to submit bid prices for one or more items on various bases, including -

- (1) Lump sum bidding;
- (2) Alternate prices;
- (3) Units of construction; or
- (4) Any combination of subparagraphs (1) through (3) above.

(c) If the solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "no bid" in the space provided for any item on which no price is submitted.

(d) Alternate bid will not be considered unless this solicitation authorizes their submission. (FAR 52.214-18)

14. SUBMISSION OF BIDS (APR 1984)

(a) Bids and bid modification shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation and (2) showing the time specified for receipt, the solicitation number, and the name and address of the bidder.

(b) Telegraphic bids will not be considered unless authorized by the solicitation; however, bids may be modified or withdrawn by written or telegraphic notice, if such notice is received by the time specified for receipt of bids. (FAR 52-214-5)

15. ACKNOWLEDGEMENT OF AMENDMENTS TO INVITATIONS FOR BIDS (APR 1984)

Bidders shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment, (b) by identifying the amendment number and date in the space provided for this purpose on the form for submitting a bid, or (c) by letter or telegram. The Government must receive the acknowledgement by the time and at the place specified for receipt of bids. (FAR 52.214-3)

16. LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS (APR 1984)

(a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it -

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of bids (e.g. a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th); or

(2) Was sent by mail (or was a telegraphic bid if authorized), and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a) above.

(c) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark on the wrapper or on the postmark shows a legible date, the bid, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, bidders should request the postal clerks to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(d) The only acceptable evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.

(e) Notwithstanding paragraph (a) above, a late modification or an otherwise successful bid that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(f) A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and that person signs a receipt for the bid. (FAR 52.214-7)

17 PUBLIC OPENING OF BIDS: Bids will be publicly opened at the time set for opening in the invitation for bids. Their content will be made public for the information of bidders and others interested, who may be present either in person or by representative.

18 CONTRACT AWARD - SEALED BIDDING - CONSTRUCTION (FEB 1986)

(a) The Government will award a contract resulting from this solicitation to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government, considering only price and the price-related factors specified in the solicitation.

(b) The Government may reject any or all bids, and waive informalities or minor irregularities in bids received.

(c) The Government may accept any item or combination of items, unless doing so is precluded by a restrictive limitation in the solicitation or the bid. (FAR 52.214-19)

19 CONTRACT AND BONDS: (Applicable only to bids of \$25,000 or more)

(Applicable only to bids of \$25,000 or more.) Within 10 days after receipt of the award the bidder to whom award is made shall furnish two bonds, each with satisfactory security; namely, a performance bond (Standard Form 25) and a payment bond (Standard 25A). The performance bond shall be in a penal sum equal to 100 percent of the contract price. The payment bond shall be equal to 50 percent of the contract price, except that it shall be 40 percent of the contract price if that price is more than \$1,000,000 and not more than \$5,000,000. The bond of any surety company holding a certificate of authority

from the Secretary of the Treasury as an acceptable surety on Federal bonds will be accepted. Individual sureties will be accepted in accordance with FAR 28.202-2. The contractor may deposit any of the types of sureties listed in FAR 28.203 instead of furnishing corporate or individual sureties on performance and payment bonds. The contract time for purposes of fixing the completion date, default, and liquidated damages shall begin to run 15 days from the mailing of acceptance, regardless of when performance and payment bonds are executed.

20 NOTE THE AFFIRMATIVE ACTION REQUIREMENT OF THE EQUAL OPPORTUNITY CLAUSE WHICH MAY APPLY TO THE CONTRACT RESULTING FROM THIS SOLICITATION

21 NOTE THE CERTIFICATION OF NONSEGREGATED FACILITIES IN THIS SOLICITATION

Bidders, offerors and applicants are cautioned to note the "Certification of Nonsegregated Facilities" in the solicitation. Failure of a bidder or offeror to agree to the certification will render his bid or offer nonresponsive to the terms of solicitations involving awards of contracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause (1978 SEP)

22 COST LIMITATION:

A bid which does not contain separate bid prices for the items identified as subject to a cost limitation may be considered nonresponsive. A bidder by signing his bid certifies that each price bid on items subject to a cost limitation include an appropriate apportionment of all applicable estimated costs, direct and indirect, as well as overhead and profit. Bids may be rejected which (i) have been materially unbalanced for the purpose of bringing affected items within cost limitations or (ii) exceed the cost limitations unless such limitations have been waived by the Assistant Secretary of Defense (Installations and Logistics) prior to award. (1974 APR)(DOD FAR SUPP 52.236-7081)

23 FALSE STATEMENTS IN BIDS (APR 1984)

Bidders must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001. (DOD FAR SUPP 52.214-4)

24 NOTICE OF RESTRICTION ON CONTRACTING WITH TOSHIBA CORPORATION OR KONGSBERG VAPENFABRIKK--OFFERORS REPRESENTATION (MARCH 1988)

(a) Offerors are advised that the Department of Defense may not procure either directly or indirectly any goods or services from Toshiba Corporation or any of its subsidiaries or Kongsberg Vapenfabrikk or any of its subsidiaries shall be rejected unless a determination is made in accordance with law permitting such a procurement. Offers from offerors, other than Toshiba Corporation, Kongsberg Vapenfabrikk, or their respective subsidiaries shall be rejected unless a determination is made in accordance with law permitting such a procurement.

(b) Definitions for purposes of this clause.

(1) Component, means those articles, materials, or supplies incorporated directly into an item to be delivered under the contract.

(2) Goods of Toshiba Corporation or any of its subsidiaries are any item of personal property specified in the schedule of this contract as an item to be delivered if such item contains components produced or manufactured by Toshiba Corporation or any of their subsidiaries and such components produced or manufactured by Toshiba Corporation or any of its subsidiaries have not been substantially transformed into a new and different article or have not been merged into a new and different article provided that, notwithstanding such transformation or merger the item shall be considered to be goods of Toshiba Corporation or any of its subsidiaries if the cost of the components produced or manufactured by Toshiba Corporation or any of its subsidiaries exceeds 50 percent of the cost of all its components.

(3) Goods of Kongsberg Vapenfabrikk or any of its subsidiaries are any item of personal property specified in the schedule of this contract as an item to be delivered if such item contains components produced or manufactured by Kongsberg Vapenfabrikk or any of its subsidiaries and such components produced or manufactured by Kongsberg Vapenfabrikk or any of its subsidiaries have not been substantially transformed into a new and different article or have not been merged into a new and different article; provided that, notwithstanding such transformation or merger, the item shall be considered to be goods of Kongsberg Vapenfabrikk or any of its subsidiaries if the cost of the components produced or manufactured by Kongsberg Vapenfabrikk or any of its subsidiaries exceeds 50 percent of the cost of all its components.

(4) Services of Toshiba Corporation are any services specified in the schedule of this contract as an item to be delivered that is performed by any employee of the Toshiba Corporation or any of its subsidiaries.

(5) Services of Kongsberg Vapenfabrikk are any service specified in the chedule of this contract as an item to be delivered that is performed by any employee of the Kongsberg Vapenfabrikk or any of its subsidiaries.

(c) The offeror hereby represents that if awarded the contract it will not provide any goods or services of Toshiba Corporation, Kongsberg Vapenfabrikk, or any of their respective subsidiaries other than those listed below:

(a) Definitions. As used in this provision,

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

"Drug-free workplace" means a site for the performance of work done in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) By submission of its offer, the offeror, if other than an individual, who is making an offer that equals or exceeds \$25,000, certifies and agrees, that with respect to all employees of the offeror to be employed under a contract resulting from this solicitation, it will---

(1) Publish a statement notifying such employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish a drug-free awareness program to inform such employees about---

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs, and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b) (1) of this provision;

(4) Notify such employees in the statement required by subparagraph (b) (1) of this provision, that as a condition of continued employment on the contract resulting from this solicitation, the employee will-

(i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug statute conviction for violation occurring in the workplace no later than five (5) days after such conviction;

(5) Notify the contracting officer within ten (10) days after receiving notice under subdivision (b) (4) (ii) of this provision, from an employee or otherwise receiving actual notice of such conviction; and

(6) within 30 days after receiving notice under subparagraph (a) (4) of this provision of a conviction, impose the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace:

(i) Take appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraph (b) (1) through (b) (6) of this provision.

(c) By submission of its offer, the offeror, if an individual who is making an offer of any dollar value, certifies and agrees that the offeror will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of the contract resulting from this solicitation.

(d) Failure of the offeror to provide the certification required by paragraphs (b) or (c) of this provision concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

(End of provision)

END

APPENDIX B
DOCUMENTS REQUIRED FOR BIDDING

B.1 Representations and Certifications

This section of the appendix contains the representations and certifications that are typically requested.

B.2 Standard Form 1442

A standard form 1442 is provided. The blocks that would normally be prepared prior to the contractor receiving the form have been completed in this example.

B.3 Bid Bond

A blank bid bond is presented in this section.

MARCH 1989

REPRESENTATIONS AND CERTIFICATIONS
(CONSTRUCTION CONTRACT)

INVITATION REFERENCE NO: _____

NAME AND ADDRESS OF BIDDER: _____

DATE OF BID: _____

THE BIDDER MAKES THE FOLLOWING REPRESENTATIONS AND CERTIFICATIONS, BY PLACING A CHECK IN THE APPROPRIATE SPACES OR OTHERWISE AS APPROPRIATE, AS PART OF THE BID IDENTIFIED ABOVE. (IN NEGOTIATED PROCUREMENTS, "BID" AND "BIDDER" SHALL MEAN "OFFER" AND "OFFEROR".) A COMPLETED REPRESENTATIONS AND CERTIFICATIONS IS TO BE RETURNED WITH THE BID.

1. SMALL BUSINESS CONCERN REPRESENTATION (MAY 1986)

The offeror represents and certifies as part of its offer that it () is, () is not a small business concern and that () all, () not all end items to be furnished will be manufactured or produced by a small business concern in the United States, its territories or possessions, Puerto Rico, or the Trust Territory of the Pacific Islands. "Small business concern", as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation. (FAR 52.219-1)

2. SMALL BUSINESS CONCERN REPRESENTATION FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (JAN 1989)

(a) Definition. "Emerging small business", as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the standard industrial classification code assigned to a contracting opportunity.

(b) Complete only if the offeror is a small business or an emerging small business, indicating its size range.

Offeror's number of employees for the past twelve months or offeror's average annual gross revenue for the last three fiscal years. (Check one of the following).

NO. OF EMPLOYEES

_____ 50 or fewer
_____ 51-100
_____ 101-250
_____ 251-500
_____ 501-750
_____ 751-1,000
_____ Over \$1,000

AVERAGE ANNUAL GROSS REVENUES

_____ \$1 million or less
_____ \$1,000,001 - \$2 million
_____ \$2,000,001 - \$3.5 million
_____ \$3,500,001 - \$5 million
_____ \$5,000,001 - \$10 million
_____ \$10,000,001 - \$17 million
_____ Over \$17 million

(END OF PROVISION)

3. CONTINGENT FEE REPRESENTATION AND AGREEMENT (APR 1984)

(a) Representation. The offeror represents that, except for full-time bona fide employees working solely for the offeror, the offeror - (NOTE: The offeror must check the appropriate boxes. For interpretation of the representation, including the term "bona fide employee", see Subpart 3.4 of the Federal Acquisition Regulation.)

(1) () has, () has not employed or retained any person or company to solicit or obtain this contract; and

(2) () has, () has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage or other fee contingent upon or resulting from the award of this contract.

(b) Agreement. The offeror agrees to provide information relating to the above Representations and Certifications as requested by the Contracting Officer and, when subparagraph (a)(1) or (a)(2) is answered affirmatively, to promptly submit to the Contracting Officer -

(1) A completed Standard Form 119, Statement of Contingent or Other Fees (SF 119); or

(2) A signed statement indicating that the SF 119 was previously submitted to the same contracting office, including the date and applicable solicitation of contract number, and representing that the prior SF 119 applies to this offer or quotation. (FAR 52.203-4)

4. TYPE OF BUSINESS ORGANIZATION - SEALED BIDDING (JUL 1987)

The bidder, by checking the applicable box, represents that -

(a) It operates as () a corporation incorporated under the laws of the state of _____, () an individual, () a partnership, () a non-profit organization, () a joint venture; or

(b) If the bidder is a foreign entity, it operates as () an individual, () a partnership, () a non-profit organization, () a joint venture, or () a corporation, registered for business in _____ (country).

5. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1984)

(a) The offeror certifies that -

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory -

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above _____
(insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization);

(ii) As an authorized agent, does certify the the principals named in subdivision (b)(2)(1) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the offeror discloses or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure. (FAR 52.203-2)

6. PARENT COMPANY AND IDENTIFYING DATA (APR 1984)

(a) A "parent" company for the purpose of this provision, is one that owns or controls the activities and basic business policies of the bidder. To own the bidding company means that the parent company must own more than 50 percent of the voting rights in that company. A company may control a bidder as a parent company is able to formulate, determine, or veto basic policy decisions of the offeror through the use of dominant minority voting rights, use of proxy voting, or otherwise.

(b) The bidder () is, () is not (check the applicable box) owned or controlled by a parent company.

(c) If the bidder checked "is" in paragraph (b) above, it shall provide the following information:

Name and Main Office Address
of Parent Company (Include Zip Code)

Parent Company's Employer's
Identification Number

(d) If the bidder checked "is not" in paragraph (b) above, it shall insert its own Employer's Identification Number on the following line _____ (FAR 52.214-8)

7. CERTIFICATION OF NONSEGREGATED FACILITIES (APR 1984) (APPLIES WHEN THE AMOUNT OF THE CONTRACT IS IN EXCESS OF \$10,000)

(a) "Segregated facilities", as used in this provision, means any waiting rooms, work area, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color religion, or national origin because of habit, local custom, or otherwise.

(b) By the submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.

(c) The offeror further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will —

- (1) Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;
- (2) Retain the certifications in the files; and
- (3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time period.)

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES.

A certification of nonsegregated facilities must be submitted before the award of a subcontract under the the subcontractor will be subject to the Equal Opportunity Clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually.)

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001. (FAR 52.222-71)

8. CLEAN AIR AND WATER CERTIFICATION (APR 1984)

The offeror certifies that -

(a) any facility to be used in the performance of this proposed contract is () is, () is not listed on the Environmental Protection Agency List of Violating Facilities;

(b) The offeror will immediately notify the Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and

(c) The offeror will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract. (FAR 52.223-1)

9. SMALL DISADVANTAGED BUSINESS CONCERN REPRESENTATION (FEB 1988)

(a) Definitions. "Small disadvantaged business concern", as used in this provision, means a small business concern, including mass media, owned and controlled by individuals who are both socially and economically disadvantaged, as defined in regulations prescribed by the U.S. Small Business Administration at 13 CFR Part 124, the majority of earnings of which directly accrue to such individuals. (13 CFR Part 125 generally provides that small disadvantaged business concern is a small business concern (1) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 percent of the voting stock of which is owned by one or more socially and economically disadvantaged individuals, and (2) whose management and daily business operations are controlled by one or more such individuals.) (See 13 CFR 125.101 through 125.110).

(b) Representation. The offeror represents that its qualifying ownership falls within at least one of the following categories, as defined in 13 CFR 125 (Check the applicable categories):

- ☐ Subcontinent Asian (Asian-Indian) American (US Citizen)
- ☐ Asian-Pacific American (US Citizen)
- ☐ Native Americans (US Citizen)
- ☐ Black American (US Citizen)
- ☐ Individual/concern certified for participation in the Minority section 8(a) of the Small Business Act (15 U.S.C. 637(a))
- ☐ Other minority found to be socially disadvantaged by the Small Business Administration (US citizen)

(c) Certification. The offeror represents and certifies, as part of its offer, that it () is, () is not a small disadvantaged business concern.

(d) Notification. The offeror agrees to notify the Contracting Officer before award of any change in its status as a small disadvantaged business concern occurring between the submission of its offer and contract award.

(e) Penalty. The offeror represents and certifies that the above information is true and understands that whoever for the purpose of securing a contract or subcontract under subsection (a) of Section 1207 of Public Law 99-661 misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (a)) shall be punished by a fine of not less than \$10,000 or by imprisonment for not more than a year, or both. (DOD FAR SUP Deviation 52.219-7005)

10. WOMEN-OWNED SMALL BUSINESS REPRESENTATION (APR 1984)

(a) Representation. The offeror represents that it () is, () is not a women-owned small business concern.

(b) Definitions. "Small business concern", as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominate in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

"Women-owned", as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business. (FAR 52.219-3)

11. DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER REPORTING (DEC 1980)

In the block with its name and address, the offeror should supply the Data Universal Number System (DUNS) Number applicable to that name and address. The DUNS number should be preceded by "DUNS". If the offeror does not have a DUNS number, it may obtain the submission of its offer pending receipt of its DUNS Number. (FAR SUPP 52.204-7004)

12. COMMERCIAL AND GOVERNMENT ENTITY (CAGE) CODE REPORTING (OCT 1987)

In the block with its name and address, the offeror should supply the CAGE code applicable to that name and address. The CAGE code should be preceded by "CAGE". If the offeror does not have a CAGE code, the offeror may request the Contracting Officer to initiate a DD Form 2051. The Contracting Activity will complete Section A and the offeror must complete Section B of the DD Form 2051. A CAGE code will be assigned when a DD Form 2051 is received by the Defense Logistics Services Center, Attn: DLSC-FBA, Federal Center, 74 N. Washington, Battle Creek, MI 49017-3084. No offeror should delay the submission of its offer pending receipt of its CAGE code. (DOD FAR SUPP 52.204-7007)

13. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (APR 1984)

The offeror represents that -

(a) It () has, () has not participated in a previous contract or subcontract subject either to the Equal Opportunity Clause of this solicitation, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114;

(b) It () has, () has not filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports signed by proposed subcontractors, will be obtained before subcontract awards. (FAR 52.222-22) •

14. PERCENT FOREIGN CONTRACT (SLP 1979)

Approximately _____ percent of the proposed contract price represents foreign content or effort. (DAR 7-2003.81)

15. CERTIFICATION OF DEBARMENT/SUSPENSION STATUS

(a) The offeror certifies with its submission of this offer that () it is, () is not (check one) suspended, debarred or ineligible from entering into contracts with the Executive Branch of the Federal Government, or in receipt of a notice of proposed debarment from another DOD Agency.

NOTE: Bids must set forth full, accurate and complete information as required by this invitation for bids (including attachments). The penalty for making false statements is prescribed in 18 U.S.C. 1001.

A completed REPRESENTATIONS AND CERTIFICATIONS is to be returned with the bid.

SOLICITATION, OFFER, AND AWARD (Construction, Alteration, or Repair)		1. SOLICITATION NO. N62477-84-B-0015	2. TYPE OF SOLICITATION <input checked="" type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 23 June 1989	PAGE OF PAGES
IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.					
CONTRACT NO. N62477-		4. REQUISITION/PURCHASE REQUEST NO.		5. PROJECT NO. 21-84-0015	
ISSUED BY		CODE	8. ADDRESS OFFER TO		
CHESAPEAKE DIVISION NAVAL FACILITIES ENGINEERING COMMAND BLDG. 212, WASHINGTON NAVY YARD WASHINGTON, D.C. 20374-2121			CHESAPEAKE DIVISION NAVAL FACILITIES ENGINEERING COMMAND BLDG. 208, WASHINGTON NAVY YARD WASHINGTON NAVY YARD 20374-2121		
FOR INFORMATION CALL.		A. NAME		B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS)	

SOLICITATION

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date):

ELECTRONIC SYSTEMS LABORATORY, AT THE NAVAL RESEARCH LABORATORY, WASHINGTON, D.C.

SOLICITATION NO. N62477

Date 23 June 1989

ESTIMATE COST: \$10,000,000.00 AND OVER

NOTICE: THIS PROCUREMENT IS UNRESTRICTED

The Contractor shall begin performance within <u>15</u> calendar days and complete it within <u>685</u> calendar days after award <u>award</u> .	
<input checked="" type="checkbox"/> award, <input type="checkbox"/> notice to proceed. This performance period is <input checked="" type="checkbox"/> mandatory, <input type="checkbox"/> negotiable. (See _____)	
A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES," indicate within how many calendar days after award in Item 12B.)	12B. CALENDAR DAYS
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	10

ADDITIONAL SOLICITATION REQUIREMENTS:

Sealed offers in original and 2 copies to perform the work required are due at the place specified in Item 8 by 2:00pm (hour) local time 25 July 1989 (date). If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

An offer guarantee ☒ is, ☐ is not required.

All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

Offers providing less than 60 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

OFFER (Must be fully completed by offeror)

NAME AND ADDRESS OF OFFEROR (Include ZIP Code)

15. TELEPHONE NO. (Include area code)

16. REMITTANCE ADDRESS (Include only if different than Item 14)

FACILITY CODE

Offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within _____ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)

LUMP SUM _____

Offeror agrees to furnish any required performance and payment bonds.

19. ACKNOWLEDGMENT OF AMENDMENTS

(The offeror acknowledges receipt of amendments to the solicitation — give number and date of each)

AMENDMENT NO.										
DATE										

NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)

20B. SIGNATURE

20C. OFFER DATE

AWARD (To be completed by Government)

ACCEPTED:

CONTENT

23. ACCOUNTING AND APPROPRIATION DATA

B. INVOICES TO ADDRESS SHOWN IN (Type or print) (copies unless otherwise specified)

ITEM

25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO

☐ 10 U.S.C. 2304(c) () ☐ 41 U.S.C. 253(c) ()

ADMINISTERED BY

CODE

27. PAYMENT WILL BE MADE BY _____

CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

NEGOTIATED AGREEMENT Contractor is required to sign this document and return _____ copies to issuing office. Contractor agrees to deliver all items or perform all work requirements identified in and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be those of (a) this contract award, (b) the solicitation, and (c) the clauses, conditions, certifications, and specifications incorporated by reference to this contract.

☐ 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award constitutes the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.

NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)

31A. NAME OF CONTRACTING OFFICER (Type or print)

SIGNATURE

30C. DATE

UNITED STATES OF AMERICA

31C. AWARD DATE

BID BOND <i>(See Instructions on reverse)</i>	DATE BOND EXECUTED <i>(Must be same or later than bid opening date)</i>
PRINCIPAL <i>(Legal name and business address)</i>	TYPE OF ORGANIZATION <i>(Mark "X" one)</i> <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION STATE OF INCORPORATION
SURETY(IES) <i>(Name and business address)</i>	

PERCENT BID CE	PENAL SUM OF BOND				BID DATE	BID IDENTIFICATION
	AMOUNT NOT TO EXCEED					INVITATION NO.
	MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS		
					FOR <i>(Construction, Supplies or Services)</i>	

OBLIGATION:

The Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has submitted the bid identified above.

WHEREFORE:

The above obligation is void if the Principal — (a) upon acceptance by the Government of the bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), executes the further contractual documents and gives the bond(s) required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by the Principal; or (b) in the event of failure so to execute such further contractual documents and give such bonds, pays the Government for any cost of procuring the work which exceeds the amount of the bid.

Each Surety executing this instrument agrees that its obligation is not impaired by any extension(s) of the time for acceptance of the bid if the Principal may grant to the Government. Notice to the surety(ies) of extension(s) are waived. However, waiver of the notice applies only to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

PRINCIPAL					
Signature(s)	1.	2.	Corporate Seal		
	(Seal)	(Seal)			
Name(s) & Title(s) <i>(Typed)</i>	1.	2.			
INDIVIDUAL SURETIES					
Signature(s)	1.	2.			
	(Seal)	(Seal)			
Name(s) <i>(Typed)</i>	1.	2.			
CORPORATE SURETY(IES)					
Name & Address			STATE OF INC.	LIABILITY LIMIT \$	
Signature(s)	1.	2.			Corporate Seal
Name(s) & Title(s) <i>(Typed)</i>	1.	2.			

CORPORATE SURETY(IES) (Continued)

Name & Address			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
				\$	
Signature(s)	1.	2.			
Name(s) & Title(s) (Typed)	1.	2.			
Name & Address			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
				\$	
Signature(s)	1.	2.			
Name(s) & Title(s) (Typed)	1.	2.			
Name & Address			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
				\$	
Signature(s)	1.	2.			
Name(s) & Title(s) (Typed)	1.	2.			
Name & Address			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
				\$	
Signature(s)	1.	2.			
Name(s) & Title(s) (Typed)	1.	2.			
Name & Address			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
				\$	
Signature(s)	1.	2.			
Name(s) & Title(s) (Typed)	1.	2.			
Name & Address			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
				\$	
Signature(s)	1.	2.			
Name(s) & Title(s) (Typed)	1.	2.			

INSTRUCTIONS

This form is authorized for use when a bid guaranty is required. Deviation from this form will require the written approval of the Administrator of General Services.

Part the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the partnership, or joint venture, or an officer of the corporation involved.

The bond may express penal sum as a percentage of the bid price. In these cases, the bond may state a maximum dollar limitation (e.g., 20% of the bid price but the amount not to exceed _____ dollars).

Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and act within the limitation listed herein. Where more than one corporate surety is involved, their names and addresses shall appear

in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)". In the space designated "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.

(b) Where individual sureties are involved, two or more responsible persons shall execute the bond. A completed Affidavit of Individual Surety (Standard Form 28), for each individual surety, shall accompany the bond. The Government may require these sureties to furnish additional substantiating information concerning their financial capability.

5. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.

6. Type the name and title of each person signing this bond in the space provided.

7. In its application to negotiated contracts, the terms "bid" and "bidder" shall include "proposal" and "offeror".

APPENDIX C

DOCUMENTS REQUIRED BEFORE COMMENCING CONSTRUCTIONS

C.1 Certificate of Insurance

A typical insurance certificate is provided. The clause crossed out was done intentionally because it is not applicable to federal contracts.

C.2 Payment Bond

A blank payment bond is presented here.

C.3 Performance

A blank performance bond is provided in this section.

ACORD. CERTIFICATE OF INSURANCE

REVISED

ISSUE DATE (MM/DD/YY)

7/17/91

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

CODE	SUB-CODE	COMPANY LETTER
		A
		B
		C
		D
		E

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. ~~UNLESS SHOWN XXX HAVE BEEN REDUCED BY PRIOR CLAIMS XXX~~

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	ALL LIMITS IN THOUSANDS
GENERAL LIABILITY				GENERAL AGGREGATE \$ 1,000
X COMMERCIAL GENERAL LIABILITY	01AM1855438	1/15/91	1/15/92	PRODUCTS-COMP/OPS AGGREGATE \$ 1,000
CLAIMS MADE OCCUR				PERSONAL & ADVERTISING INJURY \$ 1,000
OWNER'S & CONTRACTOR'S PROT.				EACH OCCURRENCE \$ 1,000
				FIRE DAMAGE (Any one fire) \$ 50
				MEDICAL EXPENSE (Any one person) \$ 5
AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT \$ 1,000
ANY AUTO				BODILY INJURY (Per person) \$
ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
SCHEDULED AUTOS				PROPERTY DAMAGE \$
X HIRED AUTOS	01BA17338350	1/15/91	1/15/92	
X NON OWNED AUTOS				
GARAGE LIABILITY				
EXCESS LIABILITY				EACH OCCURRENCE \$ AGGREGATE \$
OTHER THAN UMBRELLA FORM				
WORKER'S COMPENSATION	04WC2532818	1/15/91	1/15/92	STATUTORY \$ 100 (EACH ACCIDENT)
AND				\$ 500 (DISEASE-POLICY LIMIT)
EMPLOYERS' LIABILITY				\$ 100 (DISEASE-EACH EMPLOYEE)
OTHER				

Cancellation or any material change adversely affecting the interest of the Government in such insurance shall not be effective until such a time as may be prescribed by the laws of the State in which the contract is to be performed and in no event less than 30 days written notice to the OICC, NAS, Jacksonville, FL.

Job: N62467-91-G-6240 New security fencing at C-1 & C-2, NS, Mayport, FL

CERTIFICATE HOLDER

CANCELLATION

OICC Naval Air Station
P O Box 5
Jacksonville, FL 32212

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL EXTEND XXXX MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED ON THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

PAYMENT BOND (See instructions on reverse)		DATE BOND EXECUTED (Must be same or later than date of contract)		FORM APPROVED OMB NO. 9000-0045									
Reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat, Office of Federal Acquisition Policy, GSA, Washington, D.C. 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0045), Washington, D.C. 20503.													
PRINCIPAL (Legal name and business address)			TYPE OF ORGANIZATION ("X" one) <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION STATE OF INCORPORATION										
SURETIES (Name(s) and business address(es))			PENAL SUM OF BOND <table border="1"> <tr> <td>MILLIONS</td> <td>THOUSANDS</td> <td>HUNDREDS</td> <td>CENTS</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table> CONTRACT DATE CONTRACT NO.			MILLIONS	THOUSANDS	HUNDREDS	CENTS				
MILLIONS	THOUSANDS	HUNDREDS	CENTS										

WARRANTY:

The Principal and Surety(ies), are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

TERMS AND CONDITIONS:

Where the obligation is void if the Principal promptly makes payment to all persons having a direct relationship with the Principal or a contractor of the Principal for furnishing labor, material or both in the prosecution of the work provided for in the contract stated above, and any authorized modifications of the contract that subsequently are made. Notice of those modifications to the sureties are waived.

TESTIMONY:

Principal and Surety(ies) executed this payment bond and affixed their seals on the above date.

PRINCIPAL				
NAME(S) (Typed)	1.	2.	3.	Corporate Seal
	(Seal)	(Seal)	(Seal)	
NAME(S) & TITLE(S) (Typed)	1.	2.	3.	Corporate Seal
	(Seal)	(Seal)	(Seal)	
INDIVIDUAL SURETY(IES)				
NAME(S) (Typed)	1.	2.	(Seal)	
	(Seal)	(Seal)		
NAME(S) (Typed)	1.	2.	(Seal)	
	(Seal)	(Seal)		
CORPORATE SURETY(IES)				
NAME & ADDRESS (Typed)	STATE OF INC.		LIABILITY LIMIT	
SIGNATURE(S) (Typed)	1.	2.	Corporate Seal	
	(Seal)	(Seal)		
NAME(S) & TITLE(S) (Typed)	1.	2.	Corporate Seal	
	(Seal)	(Seal)		

CORPORATE SURETY(IES) (Continued)

NAME & ADDRESS			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
SIGNATURE(S)	1.	2.		\$	
NAME(S) & TITLE(S) (Typed)	1.	2.			
NAME & ADDRESS			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
SIGNATURE(S)	1.	2.		\$	
NAME(S) & TITLE(S) (Typed)	1.	2.			
NAME & ADDRESS			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
SIGNATURE(S)	1.	2.		\$	
NAME(S) & TITLE(S) (Typed)	1.	2.			
NAME & ADDRESS			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
SIGNATURE(S)	1.	2.		\$	
NAME(S) & TITLE(S) (Typed)	1.	2.			
NAME & ADDRESS			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
SIGNATURE(S)	1.	2.		\$	
NAME(S) & TITLE(S) (Typed)	1.	2.			
NAME & ADDRESS			STATE OF INC.	LIABILITY LIMIT	Corporate Seal
SIGNATURE(S)	1.	2.		\$	
NAME(S) & TITLE(S) (Typed)	1.	2.			

INSTRUCTIONS

This form, for the protection of persons supplying labor and material, is used when a payment bond is required under the Act of August 24, 1935, 49 Stat. 793 (40 U.S.C. 270a-270e). Any provision from this form will require the written approval of the Administrator of General Services.

Part the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of a firm, partnership, or joint venture, or an officer of the corporation involved.

(c) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must be within the limitation listed therein. Where more than one corporate surety is involved, their names and addresses shall be in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY

on the face of the form, insert only the letter identification of the sureties.

(b) Where individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28) for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning their financial capability.

4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.

5. Type the name and title of each person signing this bond in the space provided.

PERFORMANCE BOND (See instructions on reverse)	DATE BOND EXECUTED (Must be same or later than date of contract)	FORM APPROVED OMB NO. 9000-0045
--	--	---

The reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat Office of Federal Acquisition Policy, GSA, Washington, D.C. 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0045), Washington, D.C. 20503.

PRINCIPAL (Legal name and business address)	TYPE OF ORGANIZATION ("X" one) <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP, <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION STATE OF INCORPORATION												
SURETIES (Name(s) and business address(es))	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="4">PENAL SUM OF BOND</th> </tr> <tr> <td style="width:25%;">MILLION(S)</td> <td style="width:25%;">THOUSAND(S)</td> <td style="width:25%;">HUNDRED(S)</td> <td style="width:25%;">CENTS</td> </tr> <tr> <td colspan="2">CONTRACT DATE</td> <td colspan="2">CONTRACT NO.</td> </tr> </table>	PENAL SUM OF BOND				MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS	CONTRACT DATE		CONTRACT NO.	
PENAL SUM OF BOND													
MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS										
CONTRACT DATE		CONTRACT NO.											

OBLIGATION:

We, the Principal and Surety(ies), are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has entered into the contract identified above.

WHEREFORE:

The above obligation is void if the Principal -

(1) Performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of the contract during the original term of the contract and any extensions thereof that are granted by the Government, with or without notice to the Surety(ies), and during the life of any guaranty required under the contract, and (2) performs and fulfills all the undertakings, covenants, terms conditions, and agreements of any and all duly authorized modifications of the contract that hereafter are made. Notice of those modifications to the Surety(ies) are waived.

(3) Pays to the Government the full amount of the taxes imposed by the Government, if the said contract is subject to the Miller Act (40 U.S.C. 270a-270e), which are collected, deducted, or withheld from wages paid by the Principal in carrying out the construction contract with respect to which this bond is furnished.

WITNESS:

The Principal and Surety(ies) executed this performance bond and affixed their seals on the above date.

PRINCIPAL				
SIGNATURE(S)	1.	2.	3.	Corporate Seal
	(Seal)	(Seal)	(Seal)	
NAME(S) & TITLE(S) (Type)	1.	2.	3.	
INDIVIDUAL SURETY(IES)				
SIGNATURE(S)	1.	2. (Seal)		
		(Seal)		
NAME(S) (Type)	1.	2.		
CORPORATE SURETY(IES)				
NAME & ADDRESS	STATE OF INC.		LIABILITY LIMIT \$	
SIGNATURE(S)	1.	2.		
		Corporate Seal		
NAME(S) & TITLE(S) (Type)	1.	2.		

CORPORATE SURETY(IES) (Continued)

NAME & ADDRESS	STATE OF INC.	LIABILITY LIMIT	
1.	2.	\$	Corporate Seal
1.	2.		
1.	2.		
1.	2.	\$	Corporate Seal
1.	2.		
1.	2.		
1.	2.	\$	Corporate Seal
1.	2.		
1.	2.		
1.	2.	\$	Corporate Seal
1.	2.		
1.	2.		
1.	2.	\$	Corporate Seal
1.	2.		
1.	2.		

BOND PREMIUM	RATE PER THOUSAND	TOTAL
	\$	\$

INSTRUCTIONS

This form is authorized for use in connection with Government contracts. Any deviation from this form will require the written approval of the Administrator of General Services.

Enter the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the partnership, or joint venture, or an officer of the corporation involved.

Corporations executing the bond as sureties must appear on the Department of the Treasury's list of the approved sureties and must be within the limitation listed therein. Where more than one surety is involved their names and addresses shall be entered in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY(IES)"

on the face of the form insert only the letter identification of the sureties.

(b) Where individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28), for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.

4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.

5. Type the name and title of each person signing this bond in the space provided.

APPENDIX D

PRE-CONSTRUCTION CONFERENCE MINUTES

D.1 Pre-Construction Conference Minutes

A sample of the items that should be discussed at the pre-construction conference are presented in this appendix.

PRECONSTRUCTION CONFERENCE MINUTES

From: _____, Project Engineer

To: Distribution

Subj: PRECONSTRUCTION CONFERENCE FOR CONTRACT N62477-_____

1. A preconstruction conference for the subject contract was held at _____
(time) on _____ (date) at _____ (place).

2. The following persons attended: (please print legibly)

<u>Name</u>	<u>Title</u>	<u>Organization</u>	<u>Telephone</u>
-------------	--------------	---------------------	------------------

[illegible]

PRE-CONSTRUCTION CONFERENCE

3. PROJECT DESCRIPTION

- a. Title of Contract: _____
- b. Contract Amount: _____
- c. Notice of Award Date: _____
- d. Duration of Contract: _____ (date)
- e. Contract Completion Date: _____

f. Liquidated Damages: There will be an assessment of \$ _____ per day for liquidated damages if the contractor fails to complete the work within the time fixed in the contract or any extension thereof.

g. Bonds and insurance have been submitted to the awarding office? _____

4. CONTRACTOR ADMINISTRATION

a. The prime contractor is: (name and address of company) _____

b. Telephone number during normal business hours: _____

Emergency number outside of working hours: _____

c. The project manager, _____,
(does not have)(has) change order authority and is empowered to act for the contractor.

d. The project superintendent, _____,
(does not have)(has) change order authority. He is empowered to act for the contractor within the provisions of the contract. The contractor shall provide constant supervision as stated in the clause entitled "Superintendence by Contractor" of the contract clauses.

e. The contractor expects to begin field work on _____.
Normal working hours will be _____.

f. The briefing on Station administrative procedures for security and parking was given by _____. A list of contractor employees and vehicles will be submitted and approved prior to commencement of work. On-site work will be delayed until the proper personnel security measures have been completed.

g. The safety briefing was given by _____. The contractor shall comply with the clause entitled "Accident Prevention" of the contract clauses. The Safety and Accident Prevention Plan will be submitted and approved prior to commencement of work. The contractor shall comply with all pertinent provisions of the Army Corps of Engineers Manual EM385-1-1 (April 1981). Representatives of OSHA may appear without warning on the jobsite for safety inspections.

Emergency medical care is available at the station dispensary, Bldg _____ telephone number _____. The contractor is required and expected to provide for medical aide to his employees on-site. Non-emergency medical care is the responsibility of the contractor off-base. Accidents must be reported to this office on any insurance company, OSHA, or Workmen's Compensation form which contains all pertinent data.

All or part of the work may be stopped for unsafe conditions at the direction of a representative of the ROICC office or the Safety Officer at the station.

h. The contractor will comply with the environmental protection requirements set forth in the specifications and contract clauses. The Environmental Protection Plan, if required, shall be submitted to this office by _____ (date).

i. Trash shall not be allowed to accumulate and shall be removed from the job site daily and shall not be dumped in any government dumpster.

j. Value Engineering proposals are encouraged. See the clause entitled "Value Engineering - Construction" of the contract clauses.

k. AS-BUILT DRAWINGS: Marked-up prints shall be maintained during construction as required by the specifications. Drawings are to be maintained at the site and should be readily accessible at all times. These drawings shall be marked for all substantial, minor, and inconsequential deviations to differing conditions as they occur. Two (2) sets of the as-builts record drawings must be maintained and turned over to the Government at the end of the job prior to scheduling a final inspection.

l. DAILY REPORT TO INSPECTOR: Daily Reports are required for each work day, whether work was accomplished on-site or not. Submit to the Con Rep the following work day on form NAVFAC 4-4430/34. Please complete all blocks in report. It is in the contractor's interest to make these reports complete and accurate.

m. SUBMITTALS: Paragraph 11 of the contract General Paragraphs and the contract technical specifications contain instructions for the proper submission of submittals. Submittals shall be certified by the contractor that the material being proposed conforms to contract requirements. In the

event of any variance the contractor shall state specifically which portions vary and request approval of the substitute. Submit _____ copies of each submittal. Present all submittals for each specification section as a complete set, titles with the project title and contract number. Provide an index of included items with each set. Title the index with applicable specification section name and number. Clearly mark each item in the set with the specification paragraph number to which it pertains. Assemble each set in the same numeral sequence as the specification section paragraphs. Incomplete submittals and submittals with inadequate data will be rejected.

Submittal review may take up to thirty days, especially if it must go to the A/E for review. Please keep this in mind when procuring material. If you proceed to utilize material prior to receiving approval, you do so at your own risk.

n. SCHEDULE OF PRICES: The schedule of prices shall comply with paragraph 8 of the contract General Paragraphs. The original shall be submitted to this office and must be approved prior to the processing of progress payments under the contract. It must have the original signature of an authorized representative of the company. No progress payments will be made on any line item listed as lump sum.

o. CHANGES:

(1) For changes involving cost or time, submit a breakdown of costs and justification, including subcontractor's estimate, as soon as possible after Request for Proposal is received from this office (unless otherwise specifically indicated in the RFP and/or contract). The ROICC office may request a proposal either verbally or in writing.

(2) Field changes (involving no cost or time) may be executed by the Construction Representative with approval of the Project Engineer using form CHESDIV 4-4330/49.

p. INVOICES AND PROGRESS SCHEDULES:

(1) The construction progress schedule shall be submitted to the ROICC office for approval not later than 15 days after notice of award.

(2) An updated progress schedule showing the work completed must accompany each invoice. This shall be a previously approved schedule showing the actual dates and work being invoiced. This is a requirement for processing of payment requests.

(3) Your invoice for payment shall be submitted to the ROICC office for approval on NAVFAC form 10-7330/30. The contractor shall furnish a breakdown of the estimated completed work on NAVFAC form 10-7330/31 (Contract Performance Statement) and attach it to each invoice.

Two copies of the invoice with the original signature of an authorized representative of the company is required. The contractor shall complete the top portion of the invoice form including the date, invoice number (please number invoices consecutively; do not use company numbering systems), and name and address of the company.

(4) All invoices will be processed promptly by this office. Not more than one invoice during any thirty (30) day period will be accepted. No progress payments can be made until the estimate of performance has been verified by the Construction Representative. It will expedite payment if the contractor's representative reviews the performance statement with the Construction Representative before the invoice is submitted. At such time, the Construction Representative will also verify that as-built drawings are being maintained.

(5) Four copies of NAVFAC 4330/7, Contractor's Release, must be executed and forwarded with the final invoice. The contract amount, as provided for on the above form, is the contract price adjusted for any contract modifications affecting price (either additive or deductive).

q. LABOR PROVISIONS:

(1) The Labor Standards Provisions of the contract require the posting of the Wage Determination and Department of Labor poster WH-1321 at the site of all contracts exceeding \$2,000.00 to which the Davis-Bacon Act applies. Any class of mechanics and laborers that will be employed on the site and are not listed in the wage determination attached to the contract specification shall be classified or reclassified by the contractor or the subcontractor and approval requested by submitting DD Form 1565, Request for Authorization of Additional Classification and Rate, to this Office.

(2) Certified payrolls shall be submitted weekly to this office for the prime contractor and all subcontractors for each week until all work is finished. Payrolls shall include all laborers, mechanics, and working foremen or superintendents employed at the site of work. A DD Form 879, Statement of Compliance, or equivalent, shall be included with each payroll. Please number each payroll consecutively.

(3) Any questions concerning applicability or interpretation of the Fair Labor Standard Act, which falls under the jurisdiction of the Department of Labor, Should be referred directly to: Regional Director, Wage and Hour and Public Contracts Division, Department of Labor, Washington, DC.

(4) Clause 7, Subcontracts, of the Labor Standards Provision, states that each subcontractor or lower tier subcontract must include the clauses listed. DD Form 1566, Statement and Acknowledgement, is written acknowledgement that this requirement has been followed and must be submitted to the ROICC office at award of each subcontract or lower tier subcontract. Failure to do so may result in removal of the subcontractor from the jobsite. The prime Contractor is responsible for compliance by any subcontractor will all appropriate labor standard provision.

5. ROICC ADMINISTRATION

a. The administration of this contract has been assigned to the Resident Office in Charge of Construction, _____.

The Project Engineer, _____, has been authorized to act for the ROICC in the following capacities: interpretation of plans and specifications, inspection of construction at the site, and general administration of the contract through his authorized representatives.

The Construction Representative, _____, represents the Government at the work site. He has no authority to change the contract time or price or the contractor's methods and procedures as long as they conform to the plans and specifications and safe practices.

The Contract Specialist, _____ is responsible for processing of contract modifications involving money and time.

The Procurement Clerk/Assistant, _____, is involved in processing invoices, submittals, correspondence and labor violations.

THE CONTRACTOR SHOULD NOT TAKE DIRECTION FROM ANY INDIVIDUAL AT THE JOB SITE OTHER THAN AUTHORIZED REPRESENTATIVES OF THE ROICC OFFICE OR STATION SAFETY OFFICERS.

b. Except for performance and payment bonds, the initial certificate of insurance, and the actual contract document and Notice of Award, all correspondence and payrolls involving this contract will be sent to this office at the following address:

Resident Officer in Charge of Construction
Any Base
Any City, State, Zip

ROICC employee names should not be used on the outer envelope of this may result in lost or delayed correspondence.

c. _____ working days advance notice is required for out-of-hours work. Notify the Con Rep or Project Engineer. See the clause entitled "Work Outside Regular Hours" of the contract General Paragraphs.

d. Outages, road and parking detours must be requested a minimum of _____ working days prior to scheduled needs. Notify Con Rep or Project Engineer. Subcontractors should request outages via the prime contractor.

The following information on fire regulations, security procedures, safety, environmental protection, and trash clean-up apply to all subcontractors as well as the prime.

e. Fire regulations briefing was given by _____.
The Fire Department emergency number is _____.

APPENDIX E

GOVERNMENT SUPPLIED DOCUMENTS REQUIRED FOR PAYMENT

E.1 Submittal Status Log

A typical submittal status log is provided here. Submittals should be provided in a timely manner to avoid delay in invoice payments.

E.2 Schedule of Prices

The schedule of prices may be as long as necessary. Only the first sheet is provided here.

E.3 Daily Reports to Inspectors

The form provided here if filled out properly can provide a necessary sequence of events for a project.

[illegible]

4. SIGNATURE AND TITLE OF CONTRACTOR'S AGENT

PART II (To be completed by DIC or ROIC)

9. TIME FOR COMPLETION (Days)	10. REVIEWED & FORWARDED (Date)	11. SIGNATURE OF APPROVING OIC
-------------------------------	---------------------------------	--------------------------------

OF

DATE _____

CONTRACT NO.	TITLE AND LOCATION	REPORT NO.
CONTRACTOR (Prime or Subcontractor)		NAME OF SUPERINTENDENT OR FOREMAN
WEATHER	TEMPERATURE °F	
WEATHER EFFECTS		

PRIME CONTRACTOR/SUBCONTRACTOR WORKFORCE (If space provide below is inadequate, use additional sheets)				LOCATION AND DESCRIPTION OF WORK PERFORMED
NUMBER	TRADE	HOURS	EMPLOYER	
TOTAL WORK HOURS ON JOB SITE THIS DATE			WERE THERE ANY LOST TIME ACCIDENTS THIS DATE? <input type="checkbox"/> YES <input type="checkbox"/> NO IF "YES", A COPY OF THE COMPLETED OSHA REPORT IS REQUIRED	
CUMULATIVE TOTAL OF WORK HOURS FROM PREVIOUS REPORT				
TOTAL WORK HOURS FROM START OF CONSTRUCTION				

DESCRIPTION	DATE FIRST ON JOB (First time only)	HOURS WORKED THIS DATE	HOURS IDLED	DATE OF FINAL REMOVAL FROM JOB SITE

CONSTRUCTION AND PLANT EQUIPMENT NOT LEFT ON JOB SITE PERMANENTLY
(This will include pickup trucks and mobile mounted items, such as compressor, that are also used for transportation to and from the job)

DESCRIPTION	HOURS WORKED	HOURS IDLED

SEC. PARA. OR DRAWING NO.	LOCATION AND DESCRIPTION OF DEFICIENCIES (Materials, Equipment, Safety, and/or Workmanship) ACTION TAKEN OR TO BE TAKEN

DEFICIENCIES CORRECTED THIS DATE	REFERENCE	
	REPORT NO.	COMPLIANCE NOTICE NO.

INSPECTION AND/OR TESTING PERFORMED TODAY-FOLLOW WITH REPORT	LOCATION AND/OR ELEMENT OF WORK	REMARKS RESULTS OF INSPECTION/TESTING

SEC. PARA. OR DRAWING NO.	EQUIPMENT/MATERIAL RECEIVED TODAY TO BE INCORPORATED IN JOB (Description, Sizes, Quantity)	SUBMITTAL NO. OR CERTIFICATION	DATE APPROVED

REMARKS (Include directions received from ROICC/AROICC, visitors, compliance notices received, errors and/or omission in P/S; pertinent information)

CONTRACTOR/SUPERINTENDENT DATE

CONSTRUCTION REPRESENTATIVE'S REMARKS AND/OR EXCEPTIONS TO THIS REPORT

CONSTRUCTION REPRESENTATIVE DATE

APPENDIX F
CONTRACT CLAUSES

F.1 Contract Clauses

Here is provide the actual contract clauses that were attached to a project. The specific clauses attached to a specification should be scrutinized to ensure any updates are noted.

CONTRACT CLAUSES
(CONSTRUCTION CONTRACT)

CLAUSES INCORPORATED BY REFERENCE (APR 1984). This contract incorporates the following clauses by reference with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. (FAR 52.252-2)

I. FEDERAL ACQUISITION REGULATION (48 DFR CHAPTER 1) CLAUSES

1. FAR 52.202-1, Definition (APR 1984) - Alternate I (APR 1984)
2. FAR 52.203-1, Officials Not to Benefit (APR 1984)
3. FAR 52.203-3, Gratuities (APR 1984).
4. FAR 52.203-5, Covenant Against Contingent Fees (APR 1984)
5. FAR 52.203-7, Anti-Kickback Procedures Fees (FEB 1987)
6. FAR 52.204-2, Security Requirements (APR 1984) - Alternate II (APR 1984)
7. FAR 52.212-6, Time Extensions (APR 1984)
8. FAR 52.212-8, Defense Priority and Allocation Requirements (MAY 1986) (Applicable if award is ratable)
9. FAR 52.212-11, Variation in Estimated Quantity (APR 1984).
10. FAR 52.212-12, Suspension of Work (APR 1984)
11. FAR 52.214-26, Audit-Sealed Bidding (APR 1985) (Applicable if award exceeds \$100,000)
12. FAR 52.214-27, Price Reduction for Defective Cost or Pricing Data-Modifications-Sealed Bidding (APR 1988) (Applicable if award exceeds \$100,000)
13. FAR 52.214-28, Subcontractor Cost or Pricing Data-Modifications-Sealed Bidding (APR 1985) (Applicable if award \$100,000)
14. FAR 52.215-1, Examination of Records by Comptroller General (APR 1984) (Applicable if award exceeds \$25,000 and is negotiated)
15. FAR 52.219-6, Notice of Total Small Business Set Aside (APR 1984)
16. FAR 52.219-8, Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (June 1985) (Applicable if award exceeds \$10,000)

17. FAR 52.219-9, Small Business and Small Disadvantages Business Sub-Contractor Plan (APR 1984) - Alternate I (APR 1984) (Applicable if award exceeds \$1,000,000)
18. FAR 52.219-13, Utilization of Women-Owned Small Business (AUG 1986)
19. FAR 52.220-3, Utilization of Labor Surplus Area Concern (APR 1984)
20. FAR 52.220-4, Labor Surplus Area Sub-contracting Program (APR 1984)
21. FAR 52.222-1, Notice to the Government of Labor Disputes (APR 1984)
22. FAR 52.222-3, Convict Labor (APR 1984)
23. FAR 52.222-26, Equal Opportunity (APR 1984)
24. FAR 52.222-27, Affirmative Action Compliance Requirements for Construction (APR 1984) (Applicable if award exceeds \$10,000)
25. FAR 52.222-35, Affirmative Action for Special Disable and Vietnam Era Veterans (APR 1984) (Applicable if award exceeds \$10,000)
26. FAR 52.222-36, Affirmative Action for Handicapped Workers (APR 1984) (Applicable if award exceeds \$10,000)
27. FAR 52.223-2, Clean Air and Water (APR 1984) (Applicable if award exceeds \$100,000)
28. FAR 52.223-3, Hazardous Material Identification and Material Safety Data (AUG 1987) (Required for delivery of Hazardous Material)
29. FAR 52.225-5, Buy American Act - Construction Materials (APR 1984)
30. FAR 52.225-13, Restrictions on Federal Public Works Project (APR 1988)
31. FAR 52.227-1, Authorization and Consent (APR 1984)
32. FAR 52.227-2, Notice & Assistance Regarding Patent & Copyright Infringement (APR 1984) (Applicable if award exceeds \$25,000)
33. FAR 52.227-4, Patent Indemnity - Construction Contracts (APR 1984)
34. FAR 52.228-1, Bid Guarantee (APR 1984) (Applicable if award exceeds \$25,000)
35. FAR 52.228-2, Additional Bond Security (APR 1984)
36. FAR 52.228-5, Insurance-Work on a Government Installation (APR 1984) (Applicable if award exceeds \$25,000)

37. FAR 52.229-3, Federal, State, and Local Taxes (APR 1984)(Applicable if award exceeds \$25,000, or if contracting by negotiation)
38. FAR 52.232-5, Payments Under Fixed-Price Construction Contracts (AUG 1987)
39. FAR 52.232-17, Interest (APR 1984)
40. FAR 52.232-23, Assignment of Claims (JAN 1986) (Applicable if award exceeds \$1,000)
41. FAR 52.233-1, Disputes (APR 1984)
42. FAR 52.233-3, Protest after award (JUN 1985)
43. FAR 52.236-2, Differing Site Conditions (APR 1984)
44. FAR 52.236-3, Site Investigation and Conditions Affecting the Work (APR 1984)
45. FAR 52.236-5, Material and Workmanship (APR 1984)
46. FAR 52.236-6, Superintendence by the Contractor (APR 1984)
47. FAR 52.236-7, Permits and Responsibilities (APR 1984)
48. FAR 52.236-8, Other Contracts (APR 1984)
49. FAR 52.236-9, Protection of Existing Vegetation, Structures, Equipment, Utilities and Improvements (APR 1984)
50. FAR 52.236-10, Operations and Storage Areas (APR 1984)
51. FAR 52.236-11, Use and Possession Prior to Completion (APR 1984)
52. FAR 52.236-12, Clean Up (APR 1984)
53. FAR 52.236-13, Accident Prevention (APR 1984) - Alternate I (APR 1984) (Optional Under \$25,000; Applicable if award exceeds \$25,000)
54. FAR 52.236-14, Availability and Use of Utility Services (APR 1984)
55. FAR 52.236-15, Schedules for Construction Contracts (APR 1984) (~~Applicable~~ if award exceeds \$25,000)
56. FAR 52.236-17, Layout of Work (APR 1984)
57. FAR 52.236-21, Specifications and Drawings for Construction (APR 1984)
58. FAR 52.243-4, Changes (AUG 1987) (Applicable if award exceeds \$25,000)

59. FAR 52.243-5, Changes Change Conditions (APR 1984)
60. FAR 52.244-1, Subcontracts (Fixed-Price Contract) (JAN 1986)
(Applicable if Government Furnished Property Exceeds \$500,000 in value)
61. FAR 52.245-2, Government Property (Fixed-Price Contract) (APR 1984)
(Applicable if Government Furnished Property Exceeds \$50,000 in value)
62. FAR 52.245-3, Identification of Government Furnished Property
(APR 1984)
63. FAR 52.245-4, Government-Furnished Property (Short Form (APR 1984)
(Applicable if Government Furnished Property is less than \$50,000 in
value))
64. FAR 52.246-12, Inspection of Construction (JUL 1986)
65. FAR 52.246-21, Warranty of Construction (APR 1984)
66. FAR 52.246-21, Warranty of Construction (APR 1984) Alternate I
(APR 1984) (Applicable if the Government specifies the use of any
equipment by "brand name and model)
67. FAR 52.247-64, Preference for Privately Owned U.S. - Flag Commercial
Vessels (APR 1984) (Alternate II) (APR 1984) (Applicable for overseas
construction projects)
68. FAR 52.248-3, Value Engineering - Constructions (APR 1989) (Applicable
if award exceeds \$100,000)
69. FAR 52.249-1, Termination for convenience of the Government (Fixed
Price) (Short Form) (APR 1984) (Applicable if award is less than
\$100,000)
70. FAR 52.249-2, Termination for Convenience of the Government (Fixed
Price) (Short Form) (APR 1984) (Applicable if award is less then
\$100,000)
71. FAR 52.249-10, Default (Fixed-Price Construction) (APR 1984)

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Notwithstanding any other payment terms in this contract, the Government will make invoice payments and contract financing payments under terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. Definitions of pertinent terms are set forth in 32.902. All days referred to in this clause are calendar days, unless otherwise specified.

(a) Invoice Payments. (1) For purposes of this clause, "invoice payment" means a Government disbursement of monies to a Contractor under a contract of there authorization for work or services accepted by the Government, payments for partial deliveries that have been accepted by the Government, and progress payments based services performed.

(2) The due date for making invoice payments shall be as described in this subparagraph (a) (2).

(i) The due date for work or services completed by the Contractor shall be the later of the following two events:

(A) The 30th day after the designated billing office has received a proper invoice from the Contractor.

(B) The 30th day after Government acceptance of the work or services completed by the contractor. On a final invoice where the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) The due date for progress payments shall be the 30th day after Government approval of Contractor estimates of work or services accomplished.

(3) An invoice is the Contractor's bill or written request for payment under the contract of work or services performed under the contract. An invoice shall be prepared and submitted to the designated billing office. A proper invoice must include the items listed in subdivisions (a)(3)(i) through (a)(viii) of this clause. If the invoice does not comply with these requirements, then the Contractor will be notified of the defect within 15 days after receipt of the invoice at the designated billing office. Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor in the manner described in paragraph(a)(5) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., prompt payment discount terms).

- (vi) Name and address of the contractor official to whom payment is to sent (must be the same as that of the contract or in proper notice of assignment).
- (vii) Any other information a documentation required by the contractor.

(4) An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made within 15 days after due date and the following conditions are met, if applicable:

- (i) A proper invoice was received by the designated billing office.
- (ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or request progress payment amount.
- (iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement action between the Government and the Contractor.

(5) The interest penalty shall be at the rate established by the Secretary of Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the payment date, except where the interest penalty is prescribed by other governmental authority. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semi-annually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice payment and be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the period described in subparagraph (a)(3) of this clause, then the due date on the corrected invoice will be adjusted by subtracting the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustment will be made by the designated payment office for errors in calculating interest penalties, if required by the Contractor.

(6) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance or approval shall be deemed to have occurred constructively as shown in subdivisions (a)(5)(i) and (B) of this clause. In the event that actual acceptance or approval occurs within the constructive acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, Contractor compliance with a contract provision, or requested progress payment amounts. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration function, or make payment prior to fulfilling their responsibilities.

Prompt Payment - Alternate I (FEB 1988) (Continued)

(A) For work or services completed by the Contractor, Government acceptance shall be deemed to have occurred constructively on the 5th working day after the Contractor has completed the work or services in accordance with the terms and conditions.

(B) For progress payments, Government approval shall be deemed to have occurred on the 5th working day after contract estimates have been received by the designated billing office.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, this may not exceed 15 days.

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1.00 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(6) An interest penalty shall also be paid automatically by the designated payment office, without request from the Contractor, if any improperly taken discount for prompt payment was not corrected within 15 days after the expiration of the discount period through the date when the Contractor is paid.

(b) Contract Financing Payment. (1) For purposes of this clause, if applicable, "contract financing payment" means a Government disbursement of monies to a Contractor under a contract clause or other authorization prior to acceptance of supplies or services by the Government, other than progress payments based on estimates of amount and value or work performed. Contract financing payments including advance payments.

(2) If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the (insert day as received Agency head; if not prescribed, insert 30th day) day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified. For advance payments, loans, or other arrangements that do not involve recurrent submissions of contract financing requested, payments shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer. Contract financing payments shall not be assessed an interest penalty for payment delays.

(FAR 52.232-25)

(END OF CLAUSE)

(a) Definitions. As used in this clause,

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

"Drug-free workplace" means a site for the performance of work done in connection with a specific contract at which employees of the contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a contractor directly engaged in the performance of work under a Government contract.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall—

(1) Publish a statement notifying its employees that the unlawful manufacture , distribution, dispensing, possession, or use of a controlled substance is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish a drug-free awareness program to inform such employees about__

(i) The dangers of drug abuse in the workplace;

(ii) The contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistant programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b) (1) of this clause;

(4) Notify such employees in the statement required by subparagraph (b) (1) of this clause, that as a condition of continued employment on this contract, the employee will—

(i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

(5) Notify the contracting officer within (10) days after receiving notice under subdivision (a) (4) (ii) of this clause, from an employee or otherwise receiving actual notice of such conviction;

(6) Within 30 days after receiving notice under subparagraph (a) (4) of this clause of a conviction, impose the following sanction or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b) (1) through this clause.

(c) The Contractor, if an individual, agrees by award of the contract of acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with requirements of paragraph (b) of this clause may, pursuant to FAR 23.506, render the contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

(FAR 52.223-6)

(End of clause)

II DEPARTMENT OF DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS) CLAUSES
INCORPORATED BY REFERENCE

74. DFAR 52.219-7000, Small Business and Small Disadvantaged Business Subcontracting Plan (Master Plan (JUN 1988)
75. DFAR 52.225-7012, Preference for Domestic Specialty Metals (OCT 1980)
76. DFAR 52.231-7000, Supplemental Cost Principles (APR 1984)
77. DFAR 52.233-7000, Certification of Request for Adjustment or Relief, Exceeding \$100,000 (FEB 1980) (Applicable if award exceeds \$100,000)
78. DFAR 52.236-7000, Composition of Contractor (JAN 1965)
79. DFAR 52.236-7001, Modification of Proposals - Price Equipment (JAN 1965)
80. DFAR 52.236-7005, Salvage Material and Equipment (JAN 1965)
81. DFAR 52.236-7006, Misplaced Material (JAN 1965)
82. DFAR 52.236-7007, Identification of Employees (JAN 1965)
83. DFAR 52.243-7001, Pricing of Adjustment (APR 1984)

APPENDIX G
MODIFICATION DOCUMENTATION

G.1 Field Order

A sample field order is presented here. It should be noted that the form specifically states the change involves no change in contract price or duration.

G.2 Amendment of Solicitation / Modification of Contract

This form is used for all changes to a contract except field changes.

FIELD ORDER

HOW-CHESDIV 4-4330: 49 (11-67)

FIELD ORDER NO. _____
DATE _____

SAMPLE FIELD ORDER

PROJECT: _____

ACTIVITY: _____

DESCRIPTION:

More partition between Room A-116 and A-117 2 feet to the East. This reduces the width of room A-116 from 20' 0" to 18' 0" and increases the width of room A-117 from 12' 6" to 14' 6".

REFERENCE DRWG. NO. _____ SPEC. SECTION _____

REASON:

REQUESTED BY:

It is understood that this instruction does not entail any change in contract price nor any extension of contract completion date, and that no claim for either additional compensation or time will be submitted as a result of this Field Order (except as noted under REMARKS). It is further agreed that applicable drawings and specifications have been examined, and that work required by this Field Order will not hinder or interfere with work yet to be accomplished under the project contract (except as noted under REMARKS).

REMARKS:

Signed: _____
Const. Representative

Accepted: _____

Title: _____

Approved: _____

Company: _____

Title: _____

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

AMENDMENT/MODIFICATION NO.		3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
ISSUED BY		CODE	7. ADMINISTERED BY (If other than Item 6)	CODE

NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)	(y)	9A. AMENDMENT OF SOLICITATION NO.
		9B. DATED (SEE ITEM 11)
		10A. MODIFICATION OF CONTRACT/ORDER NO.
		10B. DATED (SEE ITEM 13)
FACILITY CODE		

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.

You must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:
 (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

ACCOUNTING AND APPROPRIATION DATA (If required)

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.

B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).

C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:

D. OTHER (Specify type of modification and authority)

IMPORTANT: Contractor ☐ is not, ☐ is required to sign this document and return _____ copies to the issuing office.

DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)	
CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)		3Y (Signature of Contracting Officer)	

As provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

INSTRUCTIONS

Instructions for items other than those that are self-explanatory, are as follows:

Item 1 (Contract ID Code). Insert the contract type identification code that appears in the title block of the contract being modified.

Item 3 (Effective date).

(1) For a solicitation amendment, change order, or administrative change, the effective date shall be the issue date of the amendment, change order, or administrative change.

(2) For a supplemental agreement, the effective date shall be the date agreed to by the contracting parties.

(3) For a modification issued as an initial or confirming notice of termination for the convenience of the Government, the effective date and the modification number of the confirming notice shall be the same as the effective date and modification number of the initial notice.

(4) For a modification converting a termination for default to a termination for the convenience of the Government, the effective date shall be the same as the effective date of the termination for default.

(5) For a modification confirming the contracting officer's determination of the amount due in settlement of a contract termination, the effective date shall be the same as the effective date of the initial decision.

Item 6 (Issued By). Insert the name and address of the issuing office. If applicable, insert the appropriate issuing office code in the code block.

Item 8 (Name and Address of Contractor). For modifications to a contract or order, enter the contractor's name, address, and code as shown in the original contract or order, unless changed by this or a previous modification.

Items 9, (Amendment of Solicitation No.—Dated), and 10, (Modification of Contract/Order No.—Dated). Check the appropriate box and in the corresponding blanks insert the number and date of the original solicitation, contract, or order.

Item 12 (Accounting and Appropriation Data). When appropriate, indicate the impact of the modification on each affected accounting classification by inserting one of the following entries:

(1) Accounting classification
Net increase \$

(2) Accounting classification
Net decrease \$

NOTE: If there are changes to multiple accounting classifications that cannot be placed in block 12, insert an asterisk and the words "See continuation sheet".

(g) Item 13. Check the appropriate box to indicate the type of modification. Insert in the corresponding blank the authority under which the modification is issued. Check whether or not contractor must sign this document. (See FAR 43.103.)

(h) Item 14 (Description of Amendment/Modification).

(1) Organize amendments or modifications under the appropriate Uniform Contract Format (UCF) section headings from the applicable solicitation or contract. The UCF table of contents, however, shall not be set forth in this document.

(2) Indicate the impact of the modification on the overall total contract price by inserting one of the following entries:

(i) Total contract price increased by \$

(ii) Total contract price decreased by \$

(iii) Total contract price unchanged.

(3) State reason for modification.

(4) When removing, reinstating, or adding funds, identify the contract items and accounting classifications.

(5) When the SF 30 is used to reflect a determination by the contracting officer of the amount due in settlement of a contract terminated for the convenience of the Government, the entry in Item 14 of the modification may be limited to —

(i) A reference to the letter determination; and

(ii) A statement of the net amount determined to be due in settlement of the contract.

(6) Include subject matter or short title of solicitation/contract where feasible.

(i) Item 16B. The contracting officer's signature is not required on solicitation amendments. The contracting officer's signature is normally affixed last on supplemental agreements.

APPENDIX H

OTHER DOCUMENTATION REQUIRED FOR CHANGES

H.1 Request for Information

This form should be used whenever a question arises on a project.

H.2 Proposal/Estimate for Contract Modification

This form should be used when presenting all proposals.

REQUEST FOR INFORMATION (RFI) LOG

(EXPLANATION)

RFI NUMBER: _____ (sequential number)

SUBJECT: _____ (brief, key words)

DATE RECEIVED: ____/____/____ (actual)

DATE NEEDED: ____/____/____ (contractor's request)

DATE RETURNED: ____/____/____ (actual)

SPEC REF: _____ (specification section)

SPEC REF (not printed): _____ (related specification section)

DRAWING REF: _____ (drawing numbers affected)

REMARKS: _____

WAS CONSULTED (YES OR NO): _____

WAS DEFICIENCY (YES OR NO): _____

TYPE (CLAR, VAR, NO COST, PCO #X): _____ (category of question)

POSSIBLE EXPOSURE (+, -, 0): _____ (estimate of whether a cost item)

PROPOSAL/ESTIMATE FOR CONTRACT MODIFICATION

DATE:

AVFAC 4330/43 (8/88)

CONTRACT TITLE:

CONTRACT NO:

OICC OFFICE:

DESCRIPTION:

PRIME CONTRACTOR'S WORK			Revisions/Comments
1. Direct Materials			
2. Sales Tax on Materials	% of line 1	%	
3. Direct Labor			
4. Insurance, Taxes, and Fringe Benefits	% of line 3	%	
5. Rental Equipment			
6. Sales Tax on Rental Equipment	% of line 5	%	
7. Equipment Ownership and Operating Expenses			
8. SUBTOTAL (add lines 1 - 7)			
9. Field Overhead	10.00% of line 8	%	
10. SUBTOTAL (Add Lines 8 & 9)			
Prime Remarks:			

SUB-CONTRACTOR'S WORK			
1. Direct Materials			
2. Sales Tax on Materials	% of line 11	%	
3. Direct Labor			
4. Insurance, Taxes, and Fringe Benefits	% of line 13	%	
5. Rental Equipment			
6. Sales Tax on Rental Equipment	% of line 15	%	
7. Equipment Ownership and Operating Expenses			
8. SUBTOTAL (add lines 11 - 17)			
9. Field Overhead	10.00% of line 18	%	
10. SUBTOTAL (add lines 18 & 19)			
11. Home Office Overhead	3.00% of line 20	%	
12. Profit	% of line 20	%	
13. SUBTOTAL (Add Lines 20 - 22)			
Sub's Remarks:			

SUMMARY			
4. Prime Contractor's Work (from line 10)			
5. Sub-contractor's Work (from line 23)			
6. SUBTOTAL (add lines 24 & 25)			
7. Prime Overhead on sub-contractor	5.00% of line 25	%	
8. Prime's Home Office Overhead	3.00% of line 24	%	
9. Prime's Profit	% of line 26	%	
10. SUBTOTAL (add lines 26 - 29)			
11. Prime Contractor's Bond Premium	% of line 30	%	
12. TOTAL COST (Add Lines 30 & 31)			
Estimated time extension and justification			

Prime Contractor name:

Sub-contractor name:

Signature & Title of preparer

Date

INSTRUCTIONS FOR PREPARING PROPOSAL/ESTIMATE FOR CONTRACT MODIFICATION

Contract Modification Proposals shall be addressed to the Resident Officer in Charge of Construction. Proposals must clearly state conditions and scope of the modification and shall be accompanied by a breakdown of cost, as indicated. Lump sum costs will not be accepted in either the prime or sub-contractor's breakdown of direct cost. The total cost for labor, material, and equipment rental (ownership) for each item shall be transferred to the corresponding item on the front of this form. At the contractor's option, the overhead rates printed on the front of this form may be used for proposals under \$ 500,000 in lieu of detailed itemized estimates of overhead costs. The proposal should also include a request for an extension of time, in calendar days, only if overall completion of contract is impacted by the proposed modification. The contractor shall not proceed with any of the work included in the modification until receipt of an executed modification of contract (SF30).

BREAKDOWN OF DIRECT COSTS Contract No. _____ Date: _____

ITEMS OF WORK FOR Prime Contractor	QTY	UNIT	MATERIAL		LABOR		R O	EQUIPMENT		
			Unit Cost	Total Cost	Unit Cost	Total Cost		Days	Rate	Total
DIRECT Prime Contractor's TOTALS							R	Total (Rental)		
							O	Total (Owned)		

ITEMS OF WORK FOR Sub-contractor	QTY	UNIT	MATERIAL		LABOR		R O	EQUIPMENT		
			Unit Cost	Total Cost	Unit Cost	Total Cost		Days	Rate	Total
DIRECT Sub-contractor's TOTALS							R	Total (Rental)		
							O	Total (Owned)		

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